

# **Policing Publications:**

## **Sites of Censorship Classification Enforcement in New Zealand**

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of the requirements for  
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**by Michelle Baker**

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# **Abstract**

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This thesis focuses on the work of policing, regulating and monitoring of New Zealand public censorship classifications. It follows the processes and agents involved in the day-to-day practices of the enforcement of the classifications given to objects by the Office of Film and Literature Classification. Responsibility for the enforcement of the classification decisions of the Office is delegated to private agents and agencies involved in supplying audiences with classified media products – cinemas, video stores, bookstores and libraries. The thesis also documents enforcement undertaken directly by public agents of the Censorship Compliance Unit. In this case enforcement is concerned with unclassified publications circulating on the Internet. The thesis argues that the networks of agents assembled for the practices of enforcement evolve as the forms of media evolve or change. The thesis focuses on the modes of interaction between agents, media and publics enacted in the different sites of the cinema, the bookstore, the video store, the library and the Internet. It documents the work of enforcement involved in the purchase of images for a fixed period of time in the fixed site of the cinema; the purchase of books from the fixed site of the bookstore; the hire of video films and video games from the fixed site of the video store; and the borrowing of books and videos from the fixed site of the public library. It contrasts the work of enforcement in these different sites with the development of new work practices involved in the interactive, fluid and seemingly intangible yet still policed site of the Internet. It documents how the responsibilities for, and the practices of, enforcement shift between public sites of enforcement to the increasingly difficult public monitoring of the private consumption of images distributed through the media of the Internet. It pays attention to how different methods and strategies of enforcement have been developed in response to both the classification and consumption of the expanding variety of mobile media and the proliferation and consumption of images in the unclassified and fluid world of the Internet.

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# **1. Introduction**

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Censorship is the source of much conflict and contestation wherever it is practiced, regardless of location or time. Over the last century, the boundaries drawn regarding what should be censored have shifted considerably, as have the practices associated with censorship. Popular culture versus high art and titillation versus education are some of the positions adopted by those concerned with drawing boundaries. Similarly, Parliament has passed multiple Acts in relation to the question of censorship, and made just as many amendments. However, consensus has never been (and I daresay never will be) reached as to the extent to which government should have the authority to decide what is and what is not suitable material for consumption by New Zealand citizens. Over time, types of content once considered scandalous become acceptable, and new boundaries of taste are established.

Censorship is about specific individuals or groups with legal backing deciding what is 'right' for others – what is appropriate, what is good taste and what is not. It occurs when ideas, words, sounds or images are obscured, restricted or suppressed, and takes place both through instigation of legislative systems and self-regulation or codes of practice within the media industries themselves (Watson and Shuker, 1998, p.12). A definition of censorship under New Zealand law reads as follows:

Censorship is the means whereby written and other materials are subjected to supervision and control to prevent the dissemination of views, opinions or information that are heretical, immoral, or

offensive to the government. In modern times it is with immorality and in particular sexual immorality that censorship has been chiefly concerned. There have been exceptional circumstances, such as wartime, that have given rise to censorship in the national interest.

(Greig, 1995, p.3).

Censorship in this view is seen as a contest involving both the ideals and morals of 'society', as well as the personal freedoms and liberties of the public. Numerous studies have been carried out investigating potential links between consumption of popular culture and human behavioural patterns (see Howard, 1998, pp.57-76; Berger, 2002, pp.55-69; Braun and Koirala, 1986). The charter of the New Zealand Office of Film and Literature Classification draws on a rhetoric of society. It states that its chief objective is to 'protect the New Zealand public from material that is likely to be harmful or injurious to the public good' (Office of Film and Literature Classification website, <http://www.censorship.govt.nz/censorship.html>). However, and this is significant for the argument of this thesis, despite this strong message, the OFLC itself does not itself enact or even oversee the enforcement of its classification decisions. Instead this responsibility of protecting the public is delegated to numerous agents and agencies. My intention, through the course of this thesis, is to highlight the every-day actions of those delegates of censorship enforcement in New Zealand.

The history of film censorship in New Zealand is filled with controversy over what is deemed objectionable. Content that was previously perceived by many as offensive can easily be considered 'mild' by today's standards. In relation to sexual content, offensive language and violence, censorship and classification practices have evolved markedly over time. Watson and Shuker note:

...historically, various forms of media have been the focus of considerable public debate, the target of censure, condemnation and regulation, and subjected to a variety of censorship practices and legislation.

(1998, p.11).

It will be the argument of this thesis that the networks assembled for the practices of censoring and classifying artefacts are intricate and dynamic (Latour, 1991), evolving



and reassembling as various forms of media - the artefacts themselves - evolve or change. For example, the networks producing and consuming film (and other media) have changed in conjunction with the representation of sexual violence and domestic abuse as social problems. The changes have involved the Office of Film and Literature Classification creating and implementing regulations to segment and determine the audiences of various publications, predominantly on a basis of age-suitability. The continual development and proliferation of censorship classification signals significant change in regulating the approach to mediating interaction between people and media representations.

Classifying involves dictating the circumstances under which certain things are appropriate for consumption, and organising artefacts in such a way as to categorise and segment the population into distinct (though arguably arbitrary) categories. Classification is an integral part of all aspects of human life, the processes of which are often naturalised and thus made invisible (Bowker and Star, 1999, pp.1-2). Both the practices of censoring and classifying in relation to popular culture artefacts are predicated largely on moral and philosophical rationales, with increasing involvement of representatives from 'expert' groups, such as psychologists and psychoanalysts. They are also legally sanctioned practices, as the censor's power regarding cinema, theatre, stores and in some cases the home are exercised through determining these sites as "public spheres of regulation" (Watson and Shuker, 1998, p.13).

Previous absence of the categories that are now available left censorship officials with little choice as to their actions regarding problematic material. The publication was censored - edited or banned. With the diversification of classification officials were granted a discretionary control. While still retaining the power to 'censor' a film, the Chief Censor gained the ability to specifically demarcate who should be allowed to view and interact with various publications. In response to the ordering of censorship through classification changes Gordon Mirams, 'Censor of Films' (1949-1959), noted in February of 1957 that:

...while it is true that the new concept, or guiding principle of film censorship does, of course, still retain the literary censor's traditional

function of particular elimination or total banning of material this suppressive function has now in reality been largely superseded, in New Zealand anyway, by a new function of ‘guidance’ which is not found at all in older concepts of censorship.

(*Education*, vol. 6, No. 1, February 1957).

Miram’s concept of ‘guidance’ has been refined since the formalisation of restrictive certificates in 1956 (Christoffel, 1989, p.27), with the current classification system incorporating seven primary categories. Three of these (‘G’, ‘PG’ and ‘M’) are ratings, which operate as recommendations but do not carry legal restrictions. The other four categories (‘R13’, ‘R16’, ‘R18’ and ‘objectionable’) are classifications, which do carry restrictive directives and legal consequences if breached. The classifications are not limited to those above. They also extend to restrictions based on other ages, classes of persons, and contexts of consumption (such as tertiary study, or film festivals). The introduction of this kind of classification system has created new agents and new practices within the censorship enforcement systems in New Zealand, and it is these with which this thesis is concerned.

The purpose of the thesis is to follow the processes and agents involved in the enforcement and policing of censorship classifications in New Zealand. The approach of following agents (actors and objects) through networks of classification enforcement systems draws on ideas from Actor Network Theory (for example as discussed in Latour, 2003) through investigating the relatively under-researched area of the day-to-day practices of censorship enforcement. As Orr explains, “The study of work practice is unusual; what is actually done at work is rarely examined” (1996, p.8). The thesis argues that this practical level of activity is integral to understanding broader systems and networks that mediate and shape censorship practices. In contrast to the existing research and debates that predominantly focus on disputed boundaries of censorship, the thesis seeks to provide a different account. It is concerned with what actually happens at the ‘ground level’ of censorship – those places where the classifications decided by the Office of Film and Literature Classification are put into practice, enforced and policed by various delegates, such as cinema attendants, bookstore workers, and censorship enforcement agencies.

The thesis covers three key sites of censorship practices in action. Chapter 4 explores the day-to-day workings of cinemas and cinema attendants, examining the tools utilised by the attendants to police and regulate the movement of patrons around the cinema complex and monitor access to films with age-restricted classifications. Chapter 5 addresses the challenges that arise for bookstore and video store workers in regulating the classifications of mobile objects, such as books, videos and video games. Chapter 6 provides an account of the techniques used by censorship workers to police the Internet, to track and trace the distribution of objectionable but unclassified images. The thesis documents a shift between different sites of media consumption, from public sites of enforcement to increasingly private ones. It also highlights the active role of the classified objects upon the systems created to monitor their enforcement.

## **2. Methodology**

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### **2.1 Introduction**

This chapter is designed to outline the research processes that facilitated the production of this thesis, as well as provide a reflexive account of the experience of formulating and conducting the research and the many discoveries made along the way. It discusses how the combination of methodologies used in each chapter were drawn upon. These methodologies include auto-ethnography or reflection upon work experiences, interviews, observation and analysis of secondary sources. Each of these methods was employed to varying degrees in the substantial chapters. The chapter on the shift in the New Zealand system from censorship to classification draws on existing literature on the topic, while the discussion of the cinema draws primarily on observation and experience, and is supplemented by interviews. The research on mobile objects involves a number of interviews and sites of observation, and the chapter on the internet draws primarily on literature based research, again supplemented by interview.

Regarding understanding qualitative research, Seale et. al argue that while there are a number of established frameworks and categories of research practices, there is also a need to accommodate variability and flexibility (2004, pp. 2-3). They highlight the

different roles of a methodology, “the political (or external) role” and the “procedural (or internal) one”:

In the former case, methodology helps to legitimate and elevate a discipline or practice among other enterprises and social practices...In its procedural role, though, methodology helps to frame a research topic and to guide researchers in concrete terms during the whole process of producing knowledge...”  
(2004, p.7).

In writing this chapter, both these functions of methodology have developed and been of significant value to the research process. The academically legitimating aspect of writing up methodology has in this case complemented its role of framing and guiding. By making a case for the choices I made by referring to other academic literature and articulating the rationale behind those choices, I have been able to reflect upon the process and gain a deeper understanding of the overall structure of both the research process and the thesis as a finished product.

In considering different methodological strategies, my research incorporates various elements of different research practices, such as participant observation and ethnography. During the course of researching my thesis, numerous sites were accessed and different methods were utilised to retrieve relevant information. My research on the history of censorship in New Zealand, and the establishment of classification systems is primarily based on literature research, in contrast to most of the other chapters which include more primary data from fieldwork I conducted. The cinema chapter is primarily constituted from my own observations as a cinema employee and is composed of experiences and events that have occurred in the six years I have been working there. It contains elements of both participant observation and auto-ethnography. In order to ‘validate’ my chapter on the cinema, I also conducted research at a complex that was not part of the company I worked for in order to present my findings as more ‘objective’. Being my primary source of information, and an explicit example of censorship practices that are not as clearly executed at other sites, the chapter on the cinema sets up numerous arguments that are echoed in the later ones.

In addition to the methods discussed above, I also conducted a formal interview to gain information on the elements of censorship classification enforcement at the cinema that I may not have encountered in my own work. This ‘raw data’ is reproduced in the chapter, as is other field work material in the following chapters. The chapter on mobile objects covers a range of sites within the one chapter, and each of these produced different kinds of data. The bookstore research involved both an arranged interview with an employee and a later tour of the store; the research on the library involved on-the-spot research with assistance from various employees on shift; the research on the video store involved numerous text-based interviews via email and cell phone text messaging, followed by an arranged visit to the store at a later date. In a slight contrast to the chapters which precede it, the chapter on the Internet, includes a greater mix of interview data and literature based research, much of which was conducted via websites. In comparison to the other sites included in the research, there is a huge amount of literature on the Internet and its numerous capacities, including censorship enforcement. Here, rather than generating the majority of the information myself, it was a matter of sifting through available information to find the most pertinent and relevant material, however at times this process was impeded by the discovery of broken internet links which other authors had used but which no longer existed (such as those listed by Wall, 2001, p.180). In addition to these methods, data gained from interviews for this chapter were invaluable to the development of the thesis.

## **2.2 Rationale for topic**

I have a strong personal interest in popular culture, and have incorporated that interest into my academic studies throughout my time at Canterbury University, taking papers on popular culture and media theory, and basing research projects around various films and media forms (such as road safety advertising). When considering a topic for a Master’s thesis, I was drawn to extending my interest in the area of censorship. Having worked in a cinema for six years, censorship enforcement is something I have been involved in personally many times, and wider debates around censorship in the

media have continually intrigued me. Therefore, it seemed a logical choice to follow this path in my postgraduate research.

## **2.3 Defining the research problem and developing the research question**

‘Censorship’ is a term that encompasses a broad range of topics, and I found it challenging to settle upon a specific area for my thesis. I was (and still am) interested in the controversial elements of censorship, particularly in relation to film. At the outset in March 2005, I intended to study the changing landscape of censorship practices in New Zealand, with a historical approach focusing on the changes in ‘tastes’ and standards in the way popular culture was treated by both censorship officials and by wider ‘society’. In my notes on the development of this topic, I wrote two lines: “Enforcement of Film and Literature Classification – I would suggest this is becoming increasingly problematic”. While I developed this idea in a later paragraph, I set it aside in favour of focusing on the decision-making end of the censorship process.

Being drawn to scandal and controversy, I decided to illustrate the decision-making process through case studies of high-profile cases of censorship controversy, primarily in relation to cinema, with a secondary focus on video games. By April 2005, I had compiled a comprehensive collection of articles from newspapers and websites relating to three films of notable controversy, and had established questions to investigate in relation to them – the appeals and reviews process, debates over taste, injury to the public good and freedom of speech, context of subject matter, pornography versus art. At this point, I checked with the School of Sociology and Anthropology’s Information Technology Assistant to find out whether it was appropriate to use the university’s computers to look at the websites for these films, as entry pages to the websites warned that they contained adult material and were restricted to 18 year olds and over. He informed me that while there are rules regarding the use of university computers used for study, academic research on

contentious areas was acknowledged. Therefore, if asked, I could defend my internet searches due to my thesis topic.

As part of research into the various responses to the arrival of these films in New Zealand, I intended to conduct research at cinemas where the films had played to find out how staff had handled any complaints about the films. I corresponded with the Office of Film and Literature Classification, to find out how to get access to the films, and received copies of the official classification decisions in relation to them.

## **2.4 Changes in topic**

Towards the end of April, as a result of a meeting with my thesis supervisors, I turned my research towards looking at the processes involved in the actual censoring of a film – where the film travels, where it is watched, by whom, how many times, and so on. Part of this was to investigate how groups who protest the films access them or decide which films to protest, prior to their release in New Zealand, in pro-active approach rather than a re-active one. While initially positive about this turn, I was also apprehensive. I was concerned that I would not be able to include discussion on the content of the films, and that I would be focusing more on the actions of the groups rather than the films themselves. Issues of access to the groups involved also created some doubt in my mind about pursuing this avenue of research. This was compounded by the discovery (the first of many in the research process) on the Film and Literature Board of Review's website<sup>1</sup> that “as a body carrying out quasi-judicial functions, the Board does not comment on its decisions or its decision-making process” – precisely the information I wanted!

At this point, I revisited my reasons for choosing this area as the topic for my thesis research. In choosing to look at censorship of films, I felt that this was an interesting area largely due to my own experience of the process. Through the requirement of my job to request proof of age identification for restricted films from people I believed to

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<sup>1</sup> [http://www.censorship.dia.govt.nz/diawebsite.nfs/wpg\\_URL/Agency-Film-and-Literature-Board-of-Review-Index?OpenDocument](http://www.censorship.dia.govt.nz/diawebsite.nfs/wpg_URL/Agency-Film-and-Literature-Board-of-Review-Index?OpenDocument)



be either under or close to the age of restriction, I came to realise that many movie-goers do not know what the classifications mean, nor do they realise that it is a matter of law and not simply the cinema trying to ruin their night out. The main conflict would arise when parents discovered their underage children could not attend the film despite being accompanied by their parent/guardian. The reoccurrence of such conflict during the years I worked in the cinema stirred my interest in the censorship and classification processes involved in films in New Zealand. The other reason for my interest in censorship and classification of film arose from my own experiences of watching film and disagreeing with the rating placed upon it by the Office of Film and Literature Classification. This led me to wonder what the processes involved in placing *that* rating on *that* film were, who makes these decisions, and how do other people feel about it?

In May I submitted my research proposal, outlining the aim of my thesis as being to explore the sites at which censorship classification decisions were made. Using an Actor Network Theory approach, I intended to focus upon the actors and intermediaries involved in the practices surrounding film censorship. I planned to do this by tracking the path of a film through the censorship process, and through using the literature on censorship, though there was little written on New Zealand practices compared to those of other countries. Furthermore, through discussions with others I had concluded there was little written about what happened to a film before it reached the cinema screen. My proposed methodology involved utilising the available literature, interviewing relevant parties and researching using a variety of tools including the Internet. I constructed a timeline, and my proposal was accepted by the School of Sociology and Anthropology Human Ethics Committee.

## **2.5 A Gap in the Literature**

I reviewed the literature on censorship, and found that a lot had been written about the history of censorship in New Zealand, and about moral concerns over popular culture and debates over the validity of government censorship in a democracy. However, little had been written about *how* censorship was enacted, about the application of the

legislation itself and the consistency (or lack thereof) with which it was enforced. I found the amount of literature written on film censorship to be discouraging, as I felt this was an area already well-covered in research, and so began to look for a different area to focus on. In the course of my research into films, I had come across many articles concerning the development of video games and censorship in relation to these increasingly violent and classified objects. I planned to interview those involved in the concern over young children accessing restricted games, children, parents, and gamers, and prepared interview questions, consent forms and information sheets. However, as I prepared to source subjects for the interviews, through discussion with my supervisors, I realised that this approach was straying significantly from my theoretical approach of drawing upon Actor Network Theory. Though I still considered video games to be an interesting path of research, I took a step back and began again to reconsider the direction my thesis was taking.

Around this time, through discussions with my supervisors, my research focus turned to what was done to enforce the classification decisions made by the Office of Film and Literature Classification. My primary site of interest was cinema, as I was familiar with techniques used to police classifications in such settings. During a discussion of cinema as a centralised site of censorship enforcement, the issue of mobility was raised in relation to how other sorts of objects might be monitored and their classifications enforced. This was an opening to include research on other objects such as my prior interest in video games, as well as books, videos and DVDs. From this point, my thesis came to be about sites of censorship enforcement, and what is done day-to-day to police and track the flow of objects which are classified. Put another way, it came to be about censorship practices.

When considering sites of censorship classification enforcement to research, I went through a process of developing a framework for my thesis. My primary interest in regards to censorship enforcement was the cinema, and so this was a logical choice for inclusion. My secondary interest was the censorship of video games, and so I decided to incorporate these also. As I began to think about where censorship enforcement takes place around each of these types of publications, it became

apparent that the types of tools and practices used to monitor these objects varies greatly, largely due to both the composition of the objects themselves (that is, their size and format) and also their modes and sites of consumption. I developed the idea that between these sites, the types of policing and regulating change, becoming less publicly centralised and increasingly private and therefore arguably harder to monitor. This set up an interesting basis to contrast the differences between these sites of censorship enforcement.

## **2.6 Position of the Researcher: Selection of Research**

### **Methods**

I specifically chose to study the settings I selected because of my existing personal knowledge in the area, and excitement about the topic. With limited experience in research practices prior to undertaking this thesis, I was slightly apprehensive about formulating and conducting a methodology that would yield information that would be of value to my research. The field work techniques I had used in the past (focus groups) were not going to be applicable here, and so I drew upon things I had learnt about other forms of information gathering. Having identified the people I wished to glean information from, I felt it important to conduct face-to-face interviews wherever possible, as so much can be learnt from expressions, gestures and tone used by people. While it is not possible to replicate these things exactly in the written research, I believe it helped me to better understand the things I was hearing and so better represent them when it came to including them in the thesis.

Rapley (2004) highlights the importance of interviews in the research process by arguing that the interview “*pervades and produces our contemporary cultural experiences and knowledges of authentic personal, private selves*” (p.15, original emphasis):

Interviews are, by their very nature, social encounters where speakers collaborate in producing retrospective (and prospective) *accounts* or *versions* of their past (or future) actions, experiences, feelings and thoughts...When it comes to analysing interviews, I

argue that *you should analyse what actually happened* – how your interaction produced that trajectory of talk, how specific versions of reality are co-constructed, how specific identities, discourse and narratives are produced.

(2004, p.16)

The first interview I conducted was with a cinema manager. I had made contact with other potential participants (such as friends who worked in bookstores and video stores), but this was the first interview that took place. I felt that my apprehension about interviewing might be slightly eased in the context of the cinema, due to my own role as a cinema duty manager. Fortunately, the interview went well, and fortified my confidence in my ability to engage with the interviewees responses and allow the discussion to flow. I found I was able to create the opportunity for participant initiated topics to be raised while still keeping the interview directed towards the research.

Rapley's arguments for the use of a tape recorder during interviews (p.18) match my own – the desire to be able to interact with the participant's responses rather than concentrating on note-taking, and the value of the detailed record the tape recording provides in the construction of a transcript for reflection and analysis. He also acknowledges the potential of the presence of the tape recorder to influence how people talk, but argues that there are steps by which the interviewer can accommodate or minimise such influences. Rapley outlines these methods which include explaining the degree of anonymity which will be applied to the participant's involvement, who will hear the tapes, and how the interviewer will use the information gathered. I applied the use of such techniques to my own research, explaining in information letters sent to potential participants the aims of my research and the method by which I intended to conduct it. Only one participant raised concerns about having their interview recorded, as discussed below, and this was resolved through further correspondence between myself and the participant. All other interviews were established, conducted and recorded surprisingly easily – I found that people were keen to discuss their roles as delegates of the censorship enforcement system.

My interaction with the research participants varied between interviews, as while all were with people operating in their professional capacity as employees of various businesses involved in an element of censorship enforcement, some were personally known to me from other contexts and others were contacted specifically for the purposes of this research. Rapley highlights the importance of rapport in the interview process, suggesting that “if the interviewee feels comfortable, they will find it easier to talk” (2004, p.19). Upon reflection, I developed a positive rapport with all my interview participants, though the type of rapport varied in relation to my relationship with each interviewee. A problem that I had anticipated but which never eventuated was that by interviewing friends, it may have been difficult to conduct a productive interview, to stay on topic and establish a semi-professional atmosphere in order to retrieve relevant information. Instead, these particular interviewees were focused and informative, providing interesting and at times surprising information which proved to be invaluable to my research. Ultimately, despite my initial concerns, these interviews were highly productive, both in terms of the information gathered and for their contribution to my overall research practices – these sessions helped build my confidence in my interviewing skills, making me feel more positive about the interviews still to be conducted.

Wanting to make all my participants comfortable, I explained prior to interviews the purposes of my research and my intentions for the information they provided. All participants were informed that they were able to withdraw their information at any time up until the submission of the thesis, and that recording of the interview, though preferred by myself, was negotiable if they were unsure about it. Rapley discusses the importance of the careful selection of the site of the interview itself, explaining that specific spaces may elucidate different responses from the interviewee (p.18).

Bearing this in mind, the interviews took place at mutually agreed upon locations, and the atmosphere at each was relatively relaxed. I had a list of questions to ensure that I covered all areas during the interviews, but tried to make them as open-ended as possible (though there were some preliminary fact-based ‘yes/no’ questions, which then directed the next question or area to be discussed).

While my research method does not fit exactly into the framework of participant observation, it does retain some elements of this approach. Upon commencing my research, I was already ‘immersed’ in the day-to-day activities of one of the sites I was researching – the cinema. My relationship to this particular site of censorship classification enforcement allowed both a greater depth of information and insight, and opened up issues of critical distance and reflexivity upon the practices involved at the cinema. This combination was enhanced by including multiple cinemas in my research, and by acknowledging my dual role as a researcher and participant.

May (2001) challenges the criticism of participant observation that “researchers employing this method assume that they already know what is important” (p.148) by arguing:

...participant observation is said to make no firm assumptions about what is important. Instead, the method encourages researchers to immerse themselves in the day-to-day activities of the people whom they are attempting to understand.

(p.148)

My research also reflects elements of May’s account of participant observation, in that when embarking upon my research, I believed I had “no firm assumptions” about what would be important or relevant to my research. While this was my belief at the time, as the research progressed, I was surprised by my findings upon numerous occasions. While at times this was because the information was new and unexpected, in some cases the surprise came from the challenge to the underlying assumption I had already constructed about the situation, something I was not explicitly aware of until it was disrupted. This led me to reflect upon other assumptions that I may have had in establishing my research, and how this influenced the process. As noted by May, “fieldwork is a continual process of reflection and alteration of the focus of observations in accordance with analytic developments” (2001, p.159).

## **2.7 Contacts: Getting the Information**

Throughout my research I corresponded with the Information Unit at the Office of Film Literature Classification, emailing with enquiries relating to decisions on films,

and requesting documentation such as the Office's Annual Reports for the last six years and the Films Videos and Publications Classification Act 1993. I was informed that copies of the act were available for purchase from a central city bookstore, and though a copy was available online, I chose to go ahead and purchase the hard copy (for ease with continual referencing while writing). In researching the functions of the Office, I came across information about an event held annually by the Office called 'Censor for a Day'. This event is aimed primarily at high school students and involves education regarding the processes by which classification decisions are made. While this did not directly relate to the research aims of this thesis, I attended the event held in Christchurch as I felt it would be an important opportunity to both gain insight into the workings of the Office (which I had previously considered making the focus of my thesis) and to make contacts with the people involved in these decisions (a full account of the day's proceedings can be found in Appendix 1).

Wishing to view online postings regarding decisions of the Film and Literature Board of Review, I followed the website's instructions to email a request to obtain a password to gain access to the decisions, which I received the afternoon after I had sent the email. I have also emailed various other organisations, such as the Society for the Promotion of Community Standards and authors of literature which I wished to obtain, with varying degrees of success. In my attempt to track down a copy or a transcript of an investigative television show, *Target*, I was re-directed a number of times, and as of yet have not received a response to my last inquiry. However, throughout this research, I have been most grateful for quick responses to my enquiries via email, a method of communication which was of notable significance in my research process. Email contact allowed me to seek information, arrange meetings, and conduct interviews in a manner that had numerous advantages. By its nature, email communication allowed the respondents time to consider their responses, and enabled me to more clearly articulate my requests than other methods, such as by telephone. It has also provided me with a clear transcript of the course that parts of my research has taken, as by storing the emails I was able to review when meetings and interviews had taken place, what sorts of information I had requested and what still needed to be done. For the most part, responses through email have

been informative and forthcoming, and in only a few cases have delays extended beyond desirable lengths.

Prior to contacting potential research participants, I applied to the School of Sociology and Anthropology Human Ethics Committee for approval, which was in due course granted after further clarification of some points of my application. For the most part, I made initial contact with interview participants who were not already known to me via email, as I found this gave me an opportunity to clearly outline my request for an interview while explaining the purpose of my research. I also felt it appropriate as it would allow the respondent time to consider my request and hopefully return a positive answer. All interviews (with the exception of one, to be explained further on) were conducted in person and tape-recorded. Transcripts of the interviews were created to allow analysis and inclusion of direct quotes in the thesis.

I primarily used personal contacts to gain access to the subjects I wanted to interview for my research. When considering interviewing children and their parents in relation to access to restricted video games, I approached a primary school where a relative is a teacher, and with which I am personally familiar with through voluntary work. While this option was available to me, I ultimately decided to change the course of my research and so did not carry through with this path beyond discussing it with my relative and the school's principal. Around this time, I also made contact with a local video game store manager, with whom my husband and I have a friendly relationship (largely due to the number of games my husband purchases from the store). However, this contact did not result in an interview for a number of reasons. When I went to the store to see the manager and offer a letter explaining my research and requesting an interview, I went without my husband, who usually facilitates discussions between myself and the manager. When I spoke to him, the manager seemed reluctant, and said he would need to get clearance from his head office before anything happened. I said that would be fine, and he could get back to me when he knew whether it was alright for me to interview him or not. However, as I left the store, I felt that maybe I had crossed the line from a friendly employee-customer relationship to over-familiar. He did not speak about it again when we next returned to the store, and I did not



mention it, at first thinking he was probably waiting for a reply from his head office and so I did not want to pressure him for an answer. As time passed, still no comment or contact regarding my request. In the end, my topic changed slightly from looking specifically at video games, and so I did not chase up an interview at this store. I felt uncomfortable doing so, though in hindsight, I could have told the manager that it was okay if he did not want to do the interview, that I just needed to know if the potential was there. Instead, I focused my research on other areas, and ultimately did not incorporate the site of a video game retailer into my study (though video games are covered in relation to their mobility and presence both at video hire stores and in censorship legislation).

## **2.8 Networking – making contact through ‘strong ties’ and email**

My reasons for following things through the ‘strong ties’ (Granovetter, 1973) of personal networks to gain access to the information I sought are quite straightforward – basically, I knew people who were in the business who were willing to speak with me, and due to my own level of (in)experience with fieldwork and character traits (I am a shy person) I felt this was a good initial approach that would build my confidence to contact other participants. I happened to run into a friend of many years at one of the cafes at university early on in my research, and as we were chatting, I told him what I was studying. At the time he was working at a bookstore, and related a story to me about an unusual case of censorship enforcement in relation to theft at the bookstore (I later gained his permission to use his anecdote in my thesis). My other bookstore contact was of a similar relationship, a friend who used to work at the cinema with me had left at the start of the year to work at a new bookstore in Christchurch, the newest branch of a prominent chain of bookstores. When I decided I wanted to include books and literature in my research, I contacted her via text message (the ever non-committal form of communication which allows a person time to think of an adequate excuse should they wish to refuse), and upon receiving an enthusiastic response, we arranged to meet for lunch and then find a place in town to conduct the interview. As we began the interview, I outlined the sorts of questions I

had, and as we went through them, unexpected responses negated many questions. The lack of official censorship enforcement policies at the bookstore was a surprise to both myself and to her. She said she had not really thought about it before, but especially when compared to the work we had both done at the cinema in relation to censorship, there was a definite lack of a regulated system to check for proof of age identification or restrict access to classified publications. The day after the interview, I went to the store, and was shown how censorship was ‘performed’ through the ‘sectioning’ of the store, how the pornographic magazines were displayed, and signage detailing the classification and rating definitions.

Incorporating the site of ‘the cinema’ into my research was an obvious choice, due to my knowledge of the workings of the cinema complex and my research interest in film. While I utilised experiences from my own employment, I had concerns over a conflict of interests between my role as a researcher and my role as a supervisor at the cinema, with access to confidential information. For this reason, I chose to interview a manager at another cinema. This also gave me the opportunity to find out if my experiences were particular to the cinema where I worked or, as I suspected, similar to those at other locations. I contacted an unknown manager at the cinema complex I wished to include in the research via *email*, and received a reply inviting me to phone him and set up a meeting. Keeping in mind the balance between the “advantage and a danger in revealing too much in such situations” (Obel, 2004, p.425 ), I did not inform him of my own experience of working in a cinema, as I felt this might influence our discussion – he might assume I would be familiar with things he was saying, and therefore leave out important information. I selected the cinema on the basis that it was a large multiplex, located in suburban shopping mall which frequently screened films with restricted classifications and had a patronage that included people of all ages (as opposed to my own cinema which is smaller, located in the centre of town, and has a narrower range of films and patrons alike). A meeting was arranged, and was successful in the sense that many of the manager’s answers confirmed my expectations and also gave me insight into how censorship is managed in a large, hectic, cinema environment. The interview was held on the last day of the school holidays, a busy time for the cinema, and took place in the manager’s office. At the

conclusion of the interview, he showed me around the complex, providing practical examples of the processes we had discussed earlier.

While looking at the sites of censorship enforcement, it seemed important to consider who was regulating these sites. For this reason, I contacted the Censorship Compliance Unit after reading of the existence of the role of Inspector of Publications on the Department of Internal Affairs website. Again, I *emailed* my request for an interview with the unknown official, outlining the sort of questions I wanted to ask. I received a reply from an Inspector who had worked in the CCU for nine years, and invited me to suggest a date and time for an interview. In my second email, I took up his offer of a meeting room in the building, as I was both keen to see the place where the work occurred (though ultimately, as he had written in his email, the office was not open to visitors and so our meeting took place in a room adjacent to the actual work area), and I also wanted to tape record the interview, so that I could recall detail at a later date and interact with him during the interview (instead of hastily writing notes while he spoke). His reply took me a little by surprise when he wrote that he was concerned about the tape-recording element of the interview. He commented that “one's mistakes are then a matter of permanent record!” and asked to have some “forewarning” of the sorts of questions I planned to ask. I was very concerned about his apprehension, as I felt the interview would provide invaluable information for my research, but I was very keen to record the interview, but not at the price of losing the interview itself. I emailed him with a detailed list of questions I would ask, and explained that the tapes would be purely for my own use. I offered to provide him with a copy of the transcripts if he requested, and provided the contact details of my thesis supervisors in case he wished to contact them. I emphasised that it was his choice, and if he was willing to be interviewed with out the tape-recording then that would be fine. This time, he responded positively, explaining his apprehension was due to previous comments of his being made on tape to media and consequently being misrepresented.

The interview took place in an office building in the centre of town, and the information obtained through the course of the interview reworked the direction of my

research, and ultimately led to the inclusion of a chapter I had not previously considered writing – a chapter on censorship enforcement as it pertains to the Internet. Again, I was surprised by the findings of the interview, and again, I was reminded by this of the importance of being open to other areas of discussion when going into an interview and of not excluding information that was not anticipated in the preparation for the interview. Through allowing the Inspector to discuss his job freely, from time to time returning to the list of questions I had provided him with, we covered areas that were very relevant to my thesis but which I had not previously considered including. The inspector's accounts provided the basis for a new chapter, and ultimately helped define the arch of my thesis, from centralised sites of censorship enforcement (such as the cinema), to sites where classified objects are mobile and therefore potentially harder to track (such as bookstores, video stores and libraries), to sites where censorship is almost impossible to enforce and what is required of enforcement agencies is constantly changing in relation to developments in the technologies associated with the Internet.

The last stage of fieldwork I conducted differed from the rest of the work I had done previously. A friend of many years had been working as a manager of a video hire store in Christchurch, and I had approached him about participating in my research, which he was happy to do. However, over the time spent following other avenues and conducting interviews, his company relocated him to Nelson to oversee the opening of a new store. We discussed the possibilities of one of us travelling to the other's city to do a face-to-face interview, interviewing over the phone, or conducting the interview through an Internet messaging system. Due to various limitations, we decided that I would email him a list of questions, he would respond, then I would email with follow up questions. This combination of 'strong tie' and email worked very well (despite the delay of receiving emails due to the university's email filtering system), as it gave him time to provide thoughtful answers and provided me with a transcript of the interview directly (time being of the essence with due dates fast approaching, transcribing tapes was not the most desirable option).

While changes in topic were the result of my re-thinking of the topic and leaning in a different direction, this processes was guided and supported by the input from both my supervisors. While at times I was unsure of suggested changes, in the process of doing the research I negotiated my concerns and worked through them. The crucial element of the meetings which impacted the direction of the thesis was the relatively informal nature of the discussions that took place – more than once an off-hand remark I made about an aspect of my work at the cinema was seized upon as a key point which could be developed and incorporated into the project. These were often things that I would not have considered significant to write in an email or a formal written proposal, as they were part of the every day job at the cinema. However, that is precisely why they were valuable, as the topic evolved into a research of the every day practices involved in the enforcement of classifications.

## **2.9 Selection of sites for research**

When initially considering sites of censorship enforcement to be included in my research, I was primarily interested in types of publications which I had considered researching from different angles when developing a topic for my thesis. These were films and video games. As discussed above, through the act of carrying out my research , re-shaping my focus and revising my approach to the topic, I developed an ‘arch’ of the spectrum of sites of censorship enforcement, shifting from public to private, visible and relatively easy regulation to hidden and covert operations. Again, as mentioned above, my decision to incorporate a chapter on the censorship of the Internet came only after my interview with the Censorship Compliance Unit, as I discovered that policing the trafficking and circulation of objectionable images on the Internet has become the primary focus of the resources of the CCU.

There are many other types of publications and sites where censorship enforcement is practiced, therefore there is a reason for choosing to focus on the sites that I did. Starting with a focus on film and cinema instigated a research interest and connection with the New Zealand Office of Film and Literature Classification. This connection led me to follow other publications which come under the jurisdiction of the OFLC,

which included almost anything, such as buildings, clothing, and print. However, there are two key areas which are not governed by the OFLC and the Films, Videos and Publications Classification Act – television and radio (<http://www.censorship.govt.nz/hot.html>, accessed 8/05/2006). These fall under the jurisdiction of the Broadcasting Standards Authority, “an Independent Crown Entity (ICE) set up by the Broadcasting Act 1989” which reports to Parliament “through the Minister of Broadcasting” (<http://www.bsa.govt.nz/aboutus.htm>, accessed 8/05/2006). While I would have liked to incorporate research of these sites of censorship enforcement into my thesis, I chose to focus on a smaller selection of sites. A further factor which influenced this decision was the scope of research allowed by the limitations of a Masters thesis. However, I hope to be able to incorporate these elements into future research.

## **2.10 Use of Images**

To complement my discussion of the sites of censorship enforcement discussed in the thesis I decided to include images. Consent to take photographs was obtained with surprising ease at most of the sites, through letters outlining the purpose of taking the pictures. I was allowed to take photographs where I wished at most sites, with the library requesting that I not include any members of the public in my photographs (unless I obtained their permission individually). Unfortunately, I was declined permission to take photos at the bookstore. Upon including images in the thesis, I have taken steps to ensure the continued anonymity of each site by blurring identifying company logos, though the sites will undoubtedly still be identifiable to any persons who are themselves familiar with those places. The photographs I have taken serve as illustrations to elaborate on the text which they accompany. Therefore they do not appear in the reference list. In addition to photographs that I have taken, there are images included in the thesis which have been sourced from various Internet sites. Where such images have been used, their source has been referenced. The photographs which appear in Appendix 1 were kindly supplied to me by the Office of Film and Literature Classification staff who had taken photos at the Censor for a Day events this year.

## **3. From Censorship to Classification**

### **3.1 Introduction**

Questions are often raised in the debates over censorship as to the justification for the existence of the practice at all - why are artefacts of popular culture such as books, video games and films classified? Why not just bring them into the country, and let the public choose for themselves whether or not to engage with them? Is it that we do not trust certain areas of the public to watch responsibly and to not let the images and ideologies they encounter seriously affect their perceptions of 'real life'? The answer from the point of view of the state would appear to be that the public need to be 'protected' from subject matter and its execution which is seen by some (presumably those who produce it) as acceptable but which is seen by others as 'horrific', 'sickening' and 'depraved'.

The precarious position in which the censorship system continuously finds itself is that it is caught between its charges of carrying out of its government appointed duties while maintaining the individual's rights to freedom of expression. Often the supporters of censorship, both officials and members of the public, face criticism from anti-censorship campaigners over this issue of state control versus individual freedoms (Watson & Shuker, 1998, p.13). Authors McLachlan and Scott outline their stance on this debate very clearly in their work on censorship within New Zealand, outlining the purpose of their book as addressing "one aspect of the general problem

of control exercised by the State in many fields over us as individuals” (1973, p.1). Despite the age of publication, the arguments they make against censorship are echoed in today’s debates. McLachlan and Scott suggest that the censorship system exists to preserve the power of the government over individuals by keeping from them anything that could potentially “undermine their loyalty, corrupt their morals, or cause serious dissension” (1973, p.2). McLachlan and Scott also argue that the offences defined in the government legislation such as the Crimes Act and the Cinematographic Act do not involve:

any direct harm or injury to any specific person; they are crimes without victims...If there is no victim (in the legal sense of the term), why does society feel the need to proscribe these activities?  
(1973:2).

McLachlan and Scott are anti-censorship, and as suggested above, they present arguments supporting this position which are not entirely unlike those being used by contemporary anti-censorship advocates (Chung, 2006; <http://peacefire.org/>, accessed 31/05/06, <http://www.ncac.org/>, accessed 31/05/06). One such argument is the debate over where the line is to be drawn between protecting public order and infringing upon personal liberties, and how justification for causing “harm to others” is to be defined and proved (1973, p.6). They argue:

We do not, for example, interfere with the freedom of a man to bring misery to his wife and family by excessive gambling and drinking; yet we agree to the use of censors who deprive us of the freedom to read books or see the films that they classify as indecent or injurious to the public good, although no-one has ever found incontrovertible evidence that such books or films in fact do or would harm anyone, child or adult.

(McLachlan & Scott, 1973, p.6).

The subject matter that most frequently creates controversy around popular culture is sexual material, followed closely by violence. Offensive language, drug use, cruelty to animals, and horror are also content by which films or games may be classified objectionable, however in censorship practices of classification change over time. Such content is currently widely accepted as being ‘sensitive’ and suitable ground for restrictive classifications rather than outright banning. However, sex and violence are



not always as clear-cut. Varying representations of sexuality cause offence to any number of people – nudity is seen by some as offensive while acceptable by others. In artefacts that deal with these subjects, context becomes key. Is the nudity being presented as art or erotica? Is it crucial to the story of the film/game and/or the development of its characters, or is it gratuitous and unnecessary? The same arguments are applied to depictions of violence – is it an ‘accurate’ portrayal of events experienced by people, or does it glorify violence and potentially encourage imitation?

The types of subject matter that are censored change as levels of tolerance towards certain peoples, ideologies and actions change over time. Values and standards which audiences hold in relation to their own lives are often picked up and played out by producers of entertainment media. At certain points in time, and in certain cultures, specific content may be found objectionable which at other times is received as acceptable. Films about emotionally and politically charged events, such as the holocaust or September 11<sup>th</sup>, will often come under intense scrutiny and/or criticism from various groups around the world, and the extent to which these views are circulated is influenced by the political power of those voicing the opinion. Receptions of the media will also vary upon the viewer’s interpretation of the degree of sympathy portrayed towards certain groups and depending on the time between the event and the production of the film (is the film portraying the event to tell a story or to capitalise on interest in the event?). Video games that clearly depict a particular ethnic group or nationality as the villains of the story may be criticised for stereotyping and antagonising conflictive relations between groups of people.

It is acknowledged in much of the literature on this topic that censorship is by no means a stable or simple system. It is constantly changing as different types of material come to the attention of those concerned with censorship and as social and technological changes take place within legislation and within the cultural production industries (Christoffel, 1989, p.1; Watson & Shuker, 1998, p.8). Much of the content used in contemporary popular culture, and the techniques used to execute the presentation of this content, were not foreseeable when the legislation created to

censor and classify was composed. Amendments have been made to the legislation over time, as society's attitudes shift and as popular culture increasingly reworks the boundaries of technology, taste and acceptability.

### **3.2 A History of Censorship**

Official systems of censorship in New Zealand can be traced back as far as to 1858, when customs regulations were introduced to “prohibit importation of ‘indecent’ and ‘obscene’ material” (Christoffel, 1989, p.41). What was determined as ‘indecent’ and ‘obscene’ was left to the discretion of the customs officials. As pornography and erotica became increasingly available towards the end of the nineteenth century, numerous amendments were made to the legislation, which extended the power of the censorship officials. These were largely unopposed, though some concern existed about the “infraction of the liberty of the subject” (Christoffel, 1989, p.4). The Offensive Publications Act was passed in 1892, and was the first New Zealand Act passed solely for the purpose of censorship (Christoffel, 1989, p.6). While censorship was applied to artefacts such as books, postcards and magazines, it was the censorship of film that consumed much of the public and government attention to censorship during the twentieth century.

The first film screening in New Zealand took place in 1896 at the Auckland Opera House (Watson and Shuker, 1998, p.28). The earliest recorded call for censorship in relation to film was in 1909, when the New Zealand Catholic Federation voiced concern over the violence in a film of a World Heavyweight Boxing Championship fight (Christoffel, 1989, p.11). The call to ban the film was declined by Prime Minister Ward, who was himself a boxing fan (Watson and Shuker, 1998, p.28). The decision to introduce a system of government film censorship was made as a result of a conference in 1915, attended by representatives from 45 organisations including the Society for the Protection of Women and Children, and the YMCA (Watson and Shuker, 1998, p.29; Christoffel, 1989, p.12). During this time, films were being attacked for encouraging crime, anti-social behaviour and sexual immorality, the situation being described by the newspapers as one where “the class of moving

pictures... exhibited in New Zealand constitutes a grave danger to the moral health and social welfare of the community” (*Evening Post*, December 2 1915, cited in Christoffel, 1989, p.12). Similar feelings were being voiced throughout the country:

The New Zealand Educational Institute in 1915 called for a crusade against ‘impure pictures’ which focused attention on ‘the burglar, or the seducer, or the illicit loves of husband and wife, or some of tragedies that are developed out of sexual connections, robberies, police courts, and the like’. In the Institute’s opinion, such films were ‘calculated to weaken the moral fibre of our young people’.

(Watson & Shuker, 1998, p.29).

The Cinematograph Film Censorship Act 1916 established the role of Chief Film Censor (Watson & Shuker, 1998, p.30), and “made it illegal to show any film which had not first been approved by a government-appointed censor” (Christoffel, 1989, p.12). The directive issued to the film censor was that they were not to approve any film which *in their own opinion* depicted “any matter that is against public order and decency, or the exhibition of which for any other reason is...undesirable in the public interest” (Christoffel, 1989, p.12; Watson & Shuker, 1998, p.30). Such a broad directive proved problematic, as it was purely at the film censor’s discretion if a film was approved or not. Film distributors were given the right to appeal the film censor’s decision to a Ministry of Internal Affairs appointed three-person board, though it was not until 1934 that appeals could be made against the film censor’s approval of a film (Christoffel, 1989, p.12).

The 1916 Act also introduced restrictive classifications for films. In the 1920’s, a “U” certificate meant that a film was suitable for everyone, whereas an “A” certificate indicated that the film censor considered the film to be suitable only for adults (Christoffel, 1989, p.13). However, these were instituted as recommendations – it was left to the parent’s discretion whether or not their child saw such films. It was not until the 1950s that specific age restrictions, such as R16 (restricted to people aged sixteen years of age and over) become common in film classification. Prior to this date, requests for the establishment of age restrictions upon films, such as R16, were “consistently blocked by the various Ministers of Internal Affairs as an interference in parental responsibility” (Christoffel, 1989, p.15). Age restriction certificates for films

came into action during the 1950's under new film censor Gordon Mirams, but these were not formalised by government legislation until 1956 (Christoffel, 1989, p.27).

Initially there was only one film censor appointed. The Appeal Board was constituted in 1917, and an assistant film censor appointed in 1918, followed by a second assistant in 1919 (Watson & Shuker, 1998, p.31). All members of the censor's office and the appeal board were male, and the system was largely dominated by men until two women were appointed to the Appeal Board in 1921 (Watson & Shuker, 1998, p.32; Christoffel, 1989, p.15).

While anti-censorship arguments from the past still prevail in contemporary debates, so too do those supporting the practice of censoring and classifying popular culture. Concern about the influence of films and their affect on young viewers has been a constant point of interest for pressure groups who have accused the censor of being too lenient in classifying film and failing in its role to protect the interests of the public good. In October 1920, the Legislative Council passed a recommendation that the Government:

...strengthen and make more drastic the censorship of cine-films...with the object of eliminating the noxious elements which are tending to destroy the moral sense of so many young persons.

(Quoted by Shuker & Openshaw, 1987, cited in Christoffel, 1989 p.14).

A directive issued by the Minister of Internal Affairs in 1921 was opposed vehemently by the film industry and by groups who felt the legislation would result in 'classic works' being banned. The directive promoted the idea that films featuring "thieving, robbery, murder or suicide" should be cut or banned (Christoffel, 1989, p.14). However, this directive proved to have little impact on the film censor's decisions, and many of his critics suggested a woman censor, who would be "more in tune with the values of the community", might be the solution to what they saw as an inadequate, male-dominated system (Christoffel, 1989, p.15).

Confusion existed into the 1960's over the authority of the three-person appeal board in relation to the decisions of the film censor. When in 1966 a distributor appealed a

cut made by the film censor to a film, the appeal board decided to ban the film altogether. However, a court ruling over the appeal board's action ruled that "the board could only rule on the cut under appeal, and could not ban a film or make more cuts of its own" (Christoffel, 1989, p.28).

The Cinematograph Films Act replaced the Cinematography Film Censorship Act in 1928. This new Act "extended the scope of the legislation to deal with aspects of the film industry not directly related to censorship", for example by introducing licences for picture theatres (Christoffel, 1989, p.15). There was no significant revision of the legislation surrounding film censorship again until 1976. Prior to that, film censor Doug McIntosh and his deputy Bernie Tunnicliffe had been operating under the Cinematographic Films Act 1961, the key clause of which stated that:

...the approval of the censor shall not be given with respect to any film or to any part of a film which, in his opinion, depicts any matter that is contrary to public order or decency, or the exhibition of which would, for any other reason be undesirable in the public interest.  
(no.59, page 1502, cited by Watson & Shuker, 1989, p.47).

This clause gave the censor power to ban or approve as they saw fit, based upon their personal beliefs, values, and prejudices.

As a result of travelling and studying systems of censorship in other countries, the film censor and his subsidiaries eventually produced the Cinematograph Films Act 1976 (Christoffel, 1989, p.33). Internal Affairs Minister Alan Highet introduced the Act to parliament, with the intention of liberalising film censorship and directing New Zealand towards "a maturity of attitude whereby the abolition of censorship for adults can eventually become a reality" (Christoffel, 1989, p.33). This Act also removed the discretionary clause of the 1961 Act, and introduced a list of criteria by which the chief censor was to determine whether a film was or was not "likely to be injurious to the public good" (Christoffel, 1989, p.33). The factors to be taken into account by the Chief Censor included:

- a. The dominant effect of the film as a whole, and its likely effect on the audience likely to view the film

- b. The extent to which the film has artistic merit
  - c. The extent and degree to which ... the film depicts, includes or treats anti-social behaviour, cruelty, violence, crime, horror, sex, or indecent or offensive language or behaviour
  - d. The extent and degree to which the film denigrates any particular class of the general public by reference to the colour, race, or ethnic or national origins, the sex, or the religious beliefs of the members of that class
  - e. Any other relevant circumstances relating to the proposed exhibition of the film...
- (1976, No. 168:15, cited in Watson & Shuker, 1998, p.52).

Therefore, decisions of whether or not to censor films was no longer left up to the film censor's personal opinion, but was to be determined and enforced under the application of the new legislation, which in turn gave the film censor a concrete framework from which he could justify and defend his decisions. The 1976 Act was followed by the Films Act 1980, which reinforced the requirement of the film censor to consider, in making classification decisions, the extent to which a film "denigrates any class of people by reference to such things as sex and race" (Christoffel, 1989, p.37). However, the application of the legislation was (and is today) somewhat open to debate, as definitions of just what is likely to cause 'injury to the public good' are not universally agreed upon.

In response to a public opinion poll which "demonstrated that the general populace was actually very liberal in its approach, preferring classification to censorship" (Holden 1983, cited in Watson & Shuker, 1998 p.53), the Minister of Affairs promoted a new Bill which decreed only material that was 'likely to be injurious to the public good' should be banned or cut. The new Films Act 1983 removed the need of the censor to consider the "likely affect on the audience likely to view the film" under the legislation. The new Chief Censor, Arthur Everard, decided to rely on expert advice to determine whether a film was likely to cause injury before he would agree to cut or ban a film, and as it was difficult to prove whether injury had actually occurred. As a result, increasingly sexually explicit films were passed on the 'expert advice' that "no harm would come from watching adults engaged in non-violent consensual sex" (Watson & Shuker, 1998, p.54). A direct result of this decision was the approval of films that crossed over into the genre of 'pornography'.

The actions of the Chief Censor led to a deep discontent amongst those who disagreed with his decisions informed by ‘expert advice’. A coalition of feminists and fundamentalist Christians pushed for an amendment to the Films Act 1983. This amendment sought to limit the length of service of a censor to three years with a possible renewal of no more than a second term of three years, the rationale being that “a censor would become desensitised over time”, and therefore should be replaced (Watson & Shuker, 1998, p.55).

In 1982, the Department of Internal Affairs commissioned a survey entitled ‘*The General Public’s Attitudes To Film Censorship in New Zealand*’. The research was conducted by the Heylen Research Centre and involved interviews with a sample group of 2000 respondents, aged 15 years and over (Holden, 1983, p.1). The survey inquired as to the respondent’s attendance at cinemas, their favourite types of films and their level of understanding of the classifications attached to the films. The responses were categorised by sex and age of the respondents. It concluded that males overall attended the cinema more frequently, as did people aged 15-24, and that younger people more accurately identified and understood film classifications than older ages groups, which the study attributed to their more frequent attendance (pp. 2-4). Interestingly, the research found that those who had a better understanding of film censorship classifications generally wanted less censorship, or the same amount that was currently being exercised as opposed to a desire for an increase in regulations (p.5).

Section 8 of the 1982 survey addressed the degree to which the respondents found the censor’s notes in relation to the classification of a film useful. The result of this inquiry was that while people who attended less frequently found the notes helpful, those who attended more often did not, preferring instead to substitute their own judgement for the censor’s information – “the less censorship a person wanted, the less likely they were to find the information helpful” (Holden, 1983, p.8).

At the time of the survey, according to the research results, support for an increase in film censorship was low amongst the respondents, with just over half saying there should be less or no censorship for audiences aged over 18. Male respondents favoured this position slightly more than females (Holden, 1983, p.9). While many felt the current rate of censorship was appropriate for people aged under 18, the majority of total respondents felt that young people should be able to attend restricted films if accompanied by their parent or guardian. This indicated a desire to place responsibility and choice in the hands of the child's parent/guardian rather than under the control of the government-appointed censor

Some of the key conclusions about the attitudes towards film censorship in New Zealand at the time of the 1982 survey are as follows:

....The classifications "G" and "R" [were] generally understood but fewer than half of those surveyed correctly defined the symbols "GY" and "GA". Younger/more frequent attenders, and those favouring the same amount of or less censorship, [were] more likely to know what classifications mean than [were] older/less frequent or non-attenders and those favouring more censorship.

...Nearly half of those surveyed never check censor's classifications before going to the cinema. Those most likely to check [were] the younger/more frequent attenders and females.

...The majority feel young people should be able to see an otherwise prohibited film if they are accompanied by a parent or guardian. Older people, less frequent and non-attenders [were] less likely to supports this than [were] other groups.

(Holden, 1983, p.20).

The 1993 Films, Videos and Publications Act is the legislation under which the current censorship system in New Zealand operates. This legislation brought together the censorship of books, films, video and other cultural artefacts under a single Classification Office, and created the role of the Chief Censor (Watson & Shuker, 1998, p.7). It also made provisions for decisions of the Classification Office to be reviewed by the Film and Literature Board of review, as well as "consolidate[ing] and centralis[ing] the system of labelling of films and video recordings as a prerequisite to



either the supply or the exhibition of films and video recordings to the public” (Greig, 1995, p.5 ).

The focus of the Act was to ban material on the grounds of injury to the public. In 1994, Chief Censor Kathryn Paterson outlined her support for the Act as follows:

I think it’s a clear statement that adults do have rights to view and see what they want, up to the point where it impinges on the rights of others. But I think that legislation clearly states that we have a duty to protect children.

(*Dominion*, 8 April 1994, cited in Watson & Shuker, 1989, p.7).

While the Classification Office dealt with a range of video, film and other publications, the quantity it handled directly was reduced due to changes in the structure surrounding censoring of films. Film came to be regarded in a similar fashion to videos, being evaluated initially by the Labelling Body, and only being submitted to the Classification Office if the film was likely to be restricted in New Zealand or had received restricted ratings overseas. In effect, the Chief Censor now only dealt with films that were of an adult or obscene nature (Watson & Shuker, 1998, p.58).

The 1993 Act, outlined that decisions regarding whether a product was ‘injurious to the public good’ (or not) was to be determined by the “expert opinion” of the Censor (and thus not necessarily requiring outside expert opinion) (Films, Videos and Publications Classification Act, 1993, Part 1, s 4, number 1). It also, for the first time in legislation, listed specific acts that were to be deemed ‘objectionable’:

The exploitation of children; the use of violence or coercion to compel any person to participate in ... sexual conduct with or upon the body of a dead person; the use of urine or excrement in association with degrading or dehumanising conduct ... Bestiality or acts of torture or the infliction of extreme violence.

(Films, Videos, and Publications Classification Act, 1993, Part 1 s3 number 2, as cited in Watson & Shuker, 1998, p.58).

While this gave the Chief Censor definitive guidelines, there was still debate over the simplicity of the list, and its lack of consideration for contextual treatment and execution of such subject matter.

The Films, Videos and Publications Classifications Act 1993 defined ‘film’ as “a cinematograph film, a video recording and any other material record of visual moving images” (Part 1, s2, ). It also extended the domain of the censorship laws to cover ‘film posters’, the definition of which included:

...any poster, placard, video slick, photograph, or other printed pictorial matter that is intended for use in the advertising or exhibition of any film to the public; the definition includes a miniature or enlarged representation of the whole or part of any such poster.

(The Films, Videos and Publications Classifications Act 1993, Part 1, s2).

The Act was amended in 2005, a significant change being the increase of the penalty for offences involving objectionable materials from one year maximum imprisonment to ten years.

### **3.3 Technology**

Since its introduction to law in October 1994, the Films, Videos and Publications Act 1993 has remained largely unchanged, though some amendments have been made over the years. However, as increasingly technologically sophisticated entertainment media are developed, the question arises as to whether the legislation needs to be updated in order for it to cover the scope of publications now being seen in New Zealand. As Watson and Shuker suggest:

...more sophisticated media technologies are posing new problems for censorship. Video and computer games are a dynamic and interactive media form, and may influence players in very different ways than a more passively experienced medium such as television.  
(1998, p.9).

With new technology comes new forms and degrees of representation, with interactive media becoming evermore realistic in its depictions of action and thus often blurring the lines between observing human actors in a film or news story and manipulating pixilated characters on a screen through the pressing of buttons. The technology surrounding video gaming is developing at an exponential rate, with game companies competing to capture the largest portion of the market by developing not only new games, but also new consoles upon which to play them. Technology that is now considered standard or basic would have been considered impossible a few years ago, as future developments will make the contemporary top-of-the-line equipment redundant in a similar way. However, it is the opinion of the Chief Censor's Office that the legislation drawn up in 1993 does in fact have the flexibility to be applied to technologies which did not exist when the Act was created:

The Office's ability to classify these publications is a testament to the foresight of those parliamentarians who, in 1993, voted for broad and comprehensive censorship legislation with "the flexibility to accommodate changing social perceptions". But for that built-in flexibility, it would have been much more difficult to protect society from the publications the existence of which were unforeseeable, and which have the capacity to cause harm in ways that were unascertainable, a decade ago.

(Office of Film and Literature Classification Annual Report, 2004, p.6).

The current legislation incorporates the same classifications for video games as those applied to cinematic film. These classifications are:

G – Approved for General Exhibition

PG – Parental Guidance is recommended for younger viewers

M – Suitable for Mature Audiences 16 years and over

R (followed by such age as the Chief Censor may specify) –

Approved for exhibition only to persons (age specified) years of age and over.

These ratings and classifications are often not understood by members of the public, as shown by the number of complaints made to the Office of Film and Literature Classification from parents whose children are denied entry to age-restricted films

(Office of Film and Literature Classification Annual Report 2004, p.62). However, it is arguable that the number of actual complaints made to the Office is an under-representation of the level of misunderstanding that exists around classifications. Parents attempting to take under-age children into age-restricted films, when informed by cinema employees that this is not allowed, are often surprised and angry to find that this is the case. They generally question the fact that they, as the parent or guardian, are not allowed to decide what films their child can see and ensuing debate usually reveals a lack of realisation that this is a matter of New Zealand law and not just a cinema trying to ruin their night out!

Recent media attention around the game *Grand Theft Auto 4: San Andreas* has highlighted the number of children that are playing video games which have been classified as restricted. Video game retailers are obliged to follow the law regarding the sale of restricted video games, ensuring that games are only sold to persons of the required age as directed by the decision of the Chief Censor. It is important to note that in cases where the retailers have enforced the classifications laws to the best of their abilities, the occurrence of under-age children playing restricted games is often sourced to the parents/guardians purchasing the game for the child. This may be due to a lack of knowledge of the censorship classifications, or a choice to ignore the classifications and assess the appropriateness of the game for the child themselves, or alternatively simply a lack of knowledge of the content of the game.

### 3.4 Conclusion

The Office of Film and Literature Classification outlines its primary objective as follows:

#### Our Vision

A society that fairly balances the need to protect and encourage freedom of expression and the need to limit any social harm caused by the availability of material that is injurious to the public good.

(<http://www.censorship.govt.nz/about.html>, accessed 6/03/2005).

As new forms of media enter the realm of popular culture and the entertainment industry, concern inevitably rises as to their potential impact upon certain sectors of society, most notably, youth. Watson and Shuker note:

This is frequently associated with what sociologists have termed ‘boundary crises’: periods of ambiguity and strain in society, leading to attempts to more clearly establish moral boundaries.  
(1998, pp.13-14).

In turn, such ‘crises’ lead to “legislative attempts to control both the nature of and access to each new form of popular media” (p.14). Popular culture, in a variety of forms and media, has over the years repeatedly incited such ‘moral panic’, though the concerns over earlier publications may seem naïve and trivial in comparison to the content which is creating controversy in contemporary debates such as those surrounding video gaming culture and the Internet. More so than their cinematic counterparts, video games are seen as having the ability to train the audience in violent, sexist and inhumane behaviours and attitudes due to their interactive aspect. The treatment of video games within the New Zealand censorship system has come under much scrutiny of late, as games push the limits of societal tolerance and taste, and as both national and international media continue to draw attention to the suggested link between video games and crime (Potts, 2005). Similarly, the increase in the utilisation of the Internet and the technologies it incorporates by people distributing and trading in objectionable material has become a primary point of attention and action for the Censorship Compliance Unit, delegated the responsibility of policing the Internet networks by the New Zealand Department of Internal Affairs.

In the following chapters, this thesis explores various sites of censorship enforcement, highlighting the tools, practices and barriers that are integral parts of the daily policing and monitoring of censorship classifications. The sites studied are the cinema, the distribution and circulation of mobile objects in video stores, bookstores and libraries, and the realm of the Internet.

The structure of the system surrounding the censorship and classification of film, though having evolved over time, is nonetheless well-entrenched in New Zealand,

with all films entering the country passing through a coherent and comprehensive system of checks and balances in order to ensure the film reaches (or does not as the case may be) the appropriate audience. While there are still debates over the consistency and relevance of the application of the 1993 Act and its amendments, when it comes to films and videos there is an established history and evidence of precedent to assist both the official censors and those people who make up the audiences in assessing the place of these artefacts in media-scape of New Zealand.

## 4. The Cinema

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### 4.1 Introduction

*The last day of school holidays. It is unexpectedly busy according to the manager. There are many kids around, mainly mid-teens and under, the younger ones with mum in tow. There are not many posters around the foyer, though there are a couple of standees, and banners hanging from the ceiling. There are two screens, one at either end of the foyer, screening trailers for movies. There is a huge electronic board above the Box Office counter, display in red figures the movie titles, classifications and session times. The queue for buying tickets is arranged like a cattle yard, with barriers creating a snake like formation to condense the foyer space the waiting patrons occupy. There are three ticket points open this afternoon, though as I wait in line to let someone know I am here to see the manager, another ticket point is opened, presumably to cope with the unexpected influx of movie-hungry kiddies. The Candy Bar is fully stocked, the lines being kept to a minimum to make the prospect of*

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<sup>2</sup> Photographs that appear in this chapter serve as illustrations to elaborate on the text which they accompany.

*pausing to buy sweets on the way to the movie that much more enticing. There are people lining up at the counters, streaming in and out of the toilets, milling around the foyer, and generally creating an atmosphere of excitement and anticipation. I reach the front of the line, and approach a cashier. I tell him my name and my purpose for being there, and he uses a walkie-talkie to inform the manager of my presence. Smiling, he politely asks me to wait next to the counter and says the manager will be out shortly. I see a man who I presume is the manager appear at the far end of the candy bar and wave me over. Shaking my hand, he directs me behind the counter and into the behind-the-scenes of the cinema. There is a staff area past the wall behind the candy bar, and here there is a door with an electronic keypad. The manager enters the code, and we go up stairs to another door. Behind this is a hallway with many doors on either side – one says ‘Staff Room’, and next to this is the managers office. As he hastily clears papers and cardboard away, he apologises, saying he had intended to have this tidied by the time I arrive. As we sit down on either side of his desk, I notice a huge whiteboard covering the wall behind him, with notes and reminders jumping out in red and green marker. There is a notice board, with memos and release schedules and behind us is a smaller workspace, presumably for an assistant manager to use on occasion. He finishes clearing his desk, and we begin.*

*- Field Research at Larger Cinema Complex, 07/10/2005.*

While classification decisions are made through an ever re-assembling construction of networks, incorporating numerous actors and sites of action, in the end it is sites such as the cinema<sup>3</sup> itself where film censorship is practised. The cinema is constructed and managed as a social space which allows the control, regulation and monitoring of people entering the complex by its employees. In turn, through these systems (both physical and non-material), the cinema complex creates social practices (Larkin, 2002, p.321). The purpose of this chapter is to explore the ways in which censorship is practiced within the space of a cinema through following the workings of a local cinema, and investigating the various strategies employed by the actors involved in this stage of the censorship system. The composition of the networks surrounding the operation of the cinema and the daily enforcement of censorship classifications includes numerous combinations



<sup>3</sup> For the purposes of clarity, “cinema” in this context refers to the building and business as a whole, while the term “theatre” is used to refer to the specific rooms in which the films are screened.



of tools and their utilisation, from the architecture of the cinema itself to the walkie-talkies used by staff to communicate.

Film classifications are a key component of the network that makes up the cinema complex and movie-going experience. However, they do not operate in isolation – without applied systems of enforcement they are reduced to letters and numbers. As argued by Latour (1991, pp.103-104), an imperative statement, whether spoken or written on a sign, such as ‘only people of x age can go into this movie’ is unlikely to result in the desired response from customers who, despite their age, want to see the film. Latour uses the case of a hotel manager attempting to get his guests to acquiesce to his request to return their room keys to the front desk, who must call upon innovations to achieve his goal:

The *force* with which a speaker makes a statement is never enough, *in the beginning*, to predict the path that the statement will follow. This path depends on what successive listeners do with the statement. If the listener – in this case the hotel customer – forgets the order inscribed on the sign, or if he doesn’t speak the language, the statement is reduced to a bit of paint on the piece of board.  
(1991, p.104).

The more resistant or indifferent patrons are to the cinema’s systems of control (queuing, showing identification, paying to get in, following directions to the theatre), the more innovations need to be made by the cinema and its staff should they wish to succeed in enforcing censorship classification and its legislation. As put by Latour, “the *programs* of the speaker get more complicated as they respond to the *anti-programs* of the listeners”, and if the ‘listeners’ enact their anti-programs frequently or effectively enough, the ‘speaker’ (the cinema) must take the next step to address these exploitations of the original programs by instigating “anti-anti-programs” (Latour, 1991, p.104). In cases where patrons have managed to thwart the cinema’s systems of surveillance and regulation by succeeding in gaining entry to restricted films by exploiting weaknesses in the systems, the cinema has responded by stepping up measures to stop this. For example, when it became apparent that people of age were buying tickets only to hand them on to underage people between the box office and the theatre door, cinemas began the practice of asking for proof-of-age

identification not only at the point of purchase but also at the point of entry. Once this practice was established and became known to regular cinema patrons, the need to enforce it dropped as underage patrons no longer attempted to use passed-on tickets to gain entry.

The cinema can be analysed in a similar way to the research into hotel-casinos conducted by Austrin and West (2005). The article discusses the necessary combination of “craft skills” (in relation to table gaming) and “increasingly deskilled machine minding” (p.307) in the day-to-day workings of the hotel casino. Significantly, the authors highlight processes of the negotiation and manipulation of “things”, and this focus on the flow of objects (and the surveillance of their movement and management) resonates with practice of censorship within the cinema.

Service in the cinema has become organised around modes of surveillance and the relationships between people, spaces and tools. Classification enforcement requires those employed in cinemas to police and monitor the movements of patrons around the complex. This is done through the utilisation of both employees and the components that allow the cinema to operate efficiently, such as directional and informational signage, communication devices and building layout that is conducive to the requirements of the business of regulating movement.

The cinema is a public space, privately run and owned, that is a centralised point of censorship enforcement activity which executes monitoring and regulating practices in order to fulfil its obligations under legislation (Films, Videos and Publications Classification Act, 1993) and enable the business to function smoothly. As opposed to more mobile publications such as books and videos, due to its mode of operation film is restricted to the realm of the cinema. In the same way that gambling legislation acknowledges the benefits of casinos operating under standardised licences of operators, machines and workers (Austrin & West, 2005, p.308), cinemas are licensed and sanctioned places where systems of control and regulated admission take place.

Throughout New Zealand, there are many independent cinemas operating (in addition to those which operate as parts of larger chains), particularly in smaller towns. Austrin and West's account of the expansion of casinos in the United States (p.309) is comparable to the increase of cinemas throughout New Zealand as part of the rapidly expanding leisure industry. Cinemas are growing in size and capacity, and are increasingly being incorporated into other retail/entertainment areas, such as shopping malls - mass consumption by a mass audience. In New Zealand, the larger cinema chains dominate the main centres, with three major companies operating currently. Cinemas that operate under the same chain are stylistically constructed in similar ways, though layout inevitably differs to various degrees in relation to the size of the building in which the cinema operates.

Despite differences in company and size, cinemas invariably incorporate a system of "technical and regulatory standards" (Austrin & West, p.321) of interaction between employees, patrons and the components of the cinema itself. That is, purchasing of tickets, purchasing of refreshments, visiting the toilets, accessing the theatres, finding a seat, watching the film. While these systems may vary between locations, and change over time, this routine becomes to an extent normalised, assisting both staff to operate and serve effectively and customers to gain a degree of familiarity with what 'going to the cinema' both entails and requires. Again, comparisons can be drawn here between the operations of the cinema and the casino:

Callon argues, 'normalisation makes a series of links predictable, limits fluctuations, aligns actors and intermediaries and cuts down the number of translations and the amount of information put into circulation' (1991:151). It works by 'standardising interfaces'...standardised through the ritualisation of action (Scholnick, 1978). This includes the configuration of things, spaces and positions in the casino, such as the grouping of tables and the ordering or placing of cards. But this process does not totally eliminate uncertainty concerning the interaction with players...it leaves room for error...and it is this room for error that is the basis of the surveillance hierarchy that monitors action on the tables.  
(Austrin & West, 2005, pp.320-321).

The examples used in this chapter are drawn from two Christchurch cinema complexes (buildings containing multiple theatres). These complexes operate under different chains, and while one is a large multiplex, located in a shopping mall, the other is a smaller complex, located in the centre of town. The larger cinema has eight screens, varying in size from 108 seats to 420 seats, with a total complex capacity of 1650. This is a mainstream (Hollywood, comedies, horror, teen and children's films) cinema that is frequented by many different groups, but particularly children, teenagers and families. The types of films and their associated audiences vary in relation to the type of cinema they are shown at, as explained by the manager of the mainstream cinema:

*There's mainstream film and then there's your art house film. Art house film is primarily... a lot of that stuff is R rated, but a lot of the people who go and see it are older more discerning film goers, they're sort of 30s 40s, so, for them it's not as big a deal.*

*- Interview with Cinema Complex Manager, 7/10/2005.*

In contrast, the inner-city cinema has only four screens, ranging from 98 to 169 seats, with a total capacity of 496. While this cinema also screens mainstream films, the majority of its customers are most probably drawn by its art house (foreign language, documentary, and independent) films, with middle age and elderly patrons making up the dominant audience. The research that forms the basis of this chapter includes an interview with the complex manager at the larger cinema, and observational analyses at both complexes.

## 4.2 Architecture

The majority of cinemas currently in operation are situated within purpose-built buildings due to technical requirements in relation to acoustics and other factors such as physical size and commercial location.

*They're all purpose built these days. You can't sort of ...retrofit, like for the Rialto for example, you retro-fit a building that's not designed as a cinema, and you start having issues with sound quality, and reverberation, and I know that some buildings in*

*Tauranga, for example used to shake when the train went past, things like that...*

*- Interview with Cinema Complex Manager, 7/10/2005.*

While cinema complexes vary in structure, they generally share some key features.

These are:

- an entrance clearly announcing the building as a cinema complex, featuring advertising for films in the form of posters, fliers and timetables
- a foyer area containing ticket counters, food and beverage points of sale, toilets, signage informing patrons of prices and session times, further advertising of films (in this area some complexes will screen trailers for currently screening and upcoming releases on multiple television-sized screens), and access to the theatres
- access to theatres comprising of corridors, stairways and ramps of varying length
- staff areas including stockrooms, cleaning supply rooms, staff rooms, offices and service areas
- cinemas (the majority of complexes contain at least two theatres, and though there are many complexes with a small number of theatres, such as two to four, multiplexes with larger numbers of screens are becoming ever-more prominent, particularly as cinemas become a feature of large shopping malls)
- projection area
- fire exits



When a cinema complex is designed, the architecture is constructed in line with the specific requirements of the business of regulating and moving large numbers of people repeatedly on a daily basis.

*Right from the word go, when we start designing a cinema, the first thing we're thinking about is traffic flow. How can you get them in, how can you get them to where they need to go, how can you get them into the cinema, how can you get them back out, and exiting the building, in, in a flow. So it's really important that when we design it, it's designed in the most simplistic manner.*

*- Interview with Cinema Complex Manager, 7/10/2005.*

The physical layout of the cinema is utilised both by staff to monitor the movement of patrons and by those wanting to gain unauthorised access to (often restricted) films. At many cinemas, there are two key points of interaction between staff and patrons (or three including the Candy Bar/concession counter, though not all patrons will visit this section). These are the Box Office, where staff are trained to request identification from those wishing to attend films that have been given a restrictive classification, and the point at which a cinema attendant checks tickets and directs patrons to the appropriate theatre, known as Barrier or the Control Point.



*The control point has a podium, upon which there is schedule of the cinemas, with handwritten amendments and notes. It looks like the attendant highlights each session once it starts. The area is lit by UV light, so the white paper and highlighter on the page glow. There is a podium on either side of the entry, presumably for tickets stubs, etc, if two people are at the control point. The schedule is not computerised, it is on a sheet of paper, so presumably an attendant has monitored the number of tickets going in to get this number, or communicated with box office to check the number of tickets sold.*

*- Field Research at Larger Cinema Complex, 07/10/2005.*



Q: As far as access to the theatres themselves, is there a point where you can see the entrances of all the cinemas?

A: *From the control point. From the control point you can see what's going on at the Box Office, what's going on at the Candy Bar.*

Q: And there's just that one point of entrance to the cinemas?

A: Yes

Q: I presume they've all got fire exits, but it is just that one Control Point?

A: *Yes, the one entrance to the cinemas [theatres]. And that's the way*

*we monitor it. We have other cinemas that have different entry ways of doing things, but this one is actually primarily designed with one entry point. And as you say, fire exits, but one entry and exit point. Which means one person can monitor up to, you know, say 2000 people walking through, and walking out, in terms of just being able to monitor the coming and going, and make sure they've actually paid for their ticket.*

*- Interview with Cinema Complex Manager, 7/10/2005.*

Highlighted in the above quote is the balance faced by cinema managers between enforcing censorship classifications by monitoring each patron and facilitating the business of moving large volumes of bodies in and out of the cinemas in order to maximise ticket sales and customer satisfaction.



While staff at the Control Point are trained to request identification if necessary, the weakness here is that beyond this point of surveillance there are often no other systems in place to ensure that the patrons actually enter the specific theatre to which

they have been assigned. Therefore, a person could arguably purchase a ticket for an unrestricted movie, only to access the theatre of a restricted film once having bypassed the ticket-checking attendant. This is particularly problematic in larger multiplexes where all theatres are accessible from a large passageway beyond the barrier.



*At either end of the service area are sets of solid swinging doors. One set is closed, a sign above reading "No Admittance". The doors at the other end are opened, surrounding signs indicating that this is the way to the cinemas themselves.*

*- Field Research at Smaller Cinema Complex, 07/10/2005.*

At the smaller cinema complex, there are two points of access from the foyer area to the cinema lobby, with no singular Barrier or Control Point. However, the use of these access points is arranged in such a way as to reinforce a pattern of behaviour in

patrons visiting the theatres. The architecture of the cinema itself is utilised by the staff in such a way as to maximise their potential to control the movement of patrons around the complex. All but the slimmest corners of the foyer area are visible to staff from the Box Office and Candy Bar, allowing staff to monitor the number of patrons present and their movement, be it around the foyer, at the counters, or up to the theatres. While there are two sets of stairs leading to the theatres, only one is open at all times while the doors of the other remain closed. Signage reinforces the roles of each set of doors, with “Cinemas” and an arrow being displayed above the open doors and “No Admittance” being visible above the closed passageway. Sending all patrons through the one set of doors achieves a more streamlined flow of people around the complex, enabling staff on theatre doors to check tickets and monitor admission to all theatres from a single point.



*Upon having purchased a ticket, Box Office staff give directions to the theatre where the film is playing, pointing past the end of the counter to a set of stairs leading up to the next level. Above this doorway is a sign that has “Cinemas” above an arrow. Through this doorway is a flight of stairs and from the bottom one theatre is visible. Upon reaching the lobby at the top of the stairs, there is a long corridor. Directly at the top of the stairs is a theatre, with another one found upon turning left at the top of the stairs. Beyond this, there is a ramp leading up to other theatre entrances, and at the end of the corridor there are two theatres, one on either side of the corridor. There are three posters on the right hand wall of the corridor, with two more visible on the left hand side. There is only one staff member on this level of the cinema complex, and though they check the ticket and point towards the correct theatre, it is quite possible for a patron to go in to another one. Upon progressing down the corridor, there appears to be another set of stairs at the far end similar to those leading up to this level – however the doors at the bottom of this flight of stairs are closed.*

*- Field Research at Smaller Cinema Complex, 07/10/2005.*



There are ‘weaknesses’ to this layout from the point of view of controlling movement, those being the times where staff are required to leave this point of entry to check a theatre or when patrons become familiar enough with the building to realise that going through the doors marked “No Admittance” does not carry some sort of penalty – in fact it makes access to some of the theatres faster than following the set travel path of the complex.



### 4.3 Signage

*By the Box Office is a breakdown of the admission price categories – here it is learned that a ‘child’ is aged 15 years and under for the purposes of admission. On the wall, there is also a list of the cinema’s conditions of entry, including two pertaining to the cinema’s management of its patrons: “[Cinema name] requires photo ID for proof of age for all R rated Ticket Sales/Admission”; “Management reserves the right to refuse entry or request patrons to leave”.*

*At the side of the counter there is a red notice in a flyer holder which reads in large black type:*

Identification is required for all restricted films  
(Eg. R13, R15, R16 & R18).

This is a legal requirement  
NO ID = NO ENTRY

Both the cinema and the patron are liable for up to \$15,000 worth of fines, for breaches of the classifications act.

*- Field Research at Smaller Cinema Complex, 07/10/2005.*

Using Johnson’s discussion of the role of non-human actors (1988, p.299), it can be said that the placement of this sign on the box office counter is the result of employees delegating the task of conveying the above information to people purchasing tickets. However, sometimes the sign will not be present to convey this information. This may be because the films with a restricted classification are not screening at that particular point in the day or to minimise the amount of clutter on the

counter (often already laden with promotional fliers, “Next Cashier” signs and a bell to attract the attendant’s attention). Alternatively, it may simply be that no one has remembered to put the sign up, and its absence is only realised when a patron questions the necessity to produce identification.

Q: You mentioned before there’s a sign saying that they have to have shoes to go in, is there signage around the complex telling patrons they have to have ID as well?

A: *Yes, in fact, what we usually do is for R-rated films, not at the moment, but we usually have on our text board, it says, ‘please note, ID may be requested for r-rated films’. Because we have some other stuff up there that we’re actually promoting, we’ve taken that off, but there’s a sign downstairs which actually has the ratings. Next door in fact, I think on the wall, there’s also a ratings list for the staff that’s there as a reminder, they can have a read of that any time.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

However, the use of signs only works when people both read and retain the information the signs attempt to convey. Despite the red paper and large, bold black lettering which constitutes the above sign, it is often overlooked by patrons, as are the signs that hang directly above the points of sale and read “Box Office”, “Candy Bar” and “Sold Out”.



*Again, it’s been our experience that most people hear what they want to hear. And they see what they want to see. And you can stand there and a person can walk in with a voucher for example and say, “this said I can get into this, this and this”, and then you say, “no, it says quite clearly there, it says you can’t use it this week”. And they’ll say, “well I didn’t read that”. Same way, when a patron, just off topic, but when a patron comes in with no shoes on, we don’t allow people in with no shoes. They go, “well, I didn’t see that anywhere, you should have that written up”, so you go back and say, “well its written right here”, and they go “well I don’t read signs”. People see what they want to see, and they’ll hear what they want to hear.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

The same balance between human and non-human delegates occurs at the Box Office when regulating the sales of movie tickets to ensure that only people of the correct age

are able to purchase tickets to films with restricted classifications. There is signage on the wall outlining the definitions and implications of the censor's classifications, however this is not easily seen unless specifically looked for.



*Standing in front of the counter in a position to purchase tickets, various things are visible. There is a photocopy of the movie section from the newspaper on the counter for staff use. There is a large times board mounted on the back wall. There are eight rows on the board, each filled with information for a specific film. Reading from left to right, the board shows the films title, extra information such as whether it is subtitled or no complimentary, classification notes, classifications themselves (slightly larger than the notes, and the restricted classifications displayed in red), and the session times for the day.*

*On the back bench, there is a small ice cream freezer. Behind this (and partially obscured) is framed signage containing information about the 1993 censorship legislation. From this position the following is able to be read:*

Films, Videos, and Publications Classification Act, 1993  
Film and Video Ratings and Classifications  
Film and Video Labelling Body

*Underneath this, on the left is a sign about "Age Restricted Movies", the rest of which is too small to read and on the right all the classification stickers are displayed, the small text accompanying these presumably being the definitions of each classification. On the wall to the right of the ice cream freezer, there is a display box with certificates, displayed in shadow and not really noticeable unless they were being looked for. There is also a door with a combination lock, sitting ajar with staff visible inside. From this position, to the left one can see a portion of the staff area and the staff room.*

*- Field Research at Smaller Cinema Complex, 07/10/2005.*



While there is much signage around the cinema complex informing patrons of admission requirements and so on, there is also signage for staff only. At the smaller cinema complex, on the monitors of the Box Office computers, there are small stickers indicating the

year of birth of a person aged 13, 16 or 18. This is to help staff quickly establish whether the identification presented to them in fact proves the person is of or over the required age. If there are new staff on shift, or supervisors have concerns about a particular movie, the directive to ask for identification may be repeated on the sheet given to staff at the start of the shift, which details information such as workstations, break times, secondary duties and extra notes for the shift.

At the larger cinema, the ticket issuing system is more high-tech, incorporating touch screens and prompts from the computer in response to staff input.

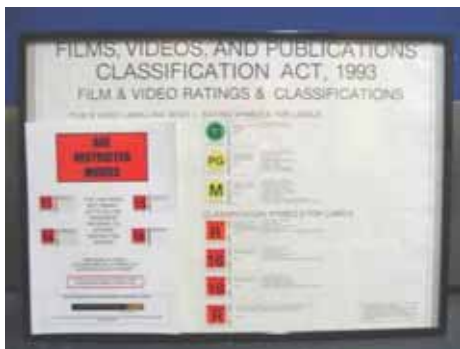
*The system's designed so we actually put in ratings behind the screen. So it says "40 Year Old Virgin is R16". If you go, "I'm going to put a child on that", it says "This film is not for children". So, it automatically questions these guys... So there is these couple of fail-safes here, but these guys generally will go through the whole process of just saying, " sorry, yes, no, is there more people with you, this is what is going to happen, you might get checked if you're coming back tonight, are you buying these for kids?" They'll go through that whole routine.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

## 4.4 Ratings, Classifications and Labels

Under the New Zealand censorship system, publications are given a rating or classification which is denoted by a label which legally must be displayed in accordance with the Films, Videos and Publications Classification Act 1993. The creation and implementation of a greater number of categories and classifications ultimately results in a greater 'freedom' despite the increase of restrictions. As multiple tiers of classification are introduced, the audience is expanded - instead of all or nothing as far as audiences go, diversification of classifications creates multiple categories, consequently increasing the potential audience base.

The current New Zealand system consists of two types of labels – classifications and ratings. Ratings are recommendations made by the Chief Censor as to the type of audience the film is best suited to, but is in no way restrictive or exclusive. Ratings



currently used by the Office of Film and Literature Classification are 'G', 'PG' and 'M'. The 'G' – General - rating signifies that the publication is suitable for a general audience, while 'PG' stands for 'Parent Guidance - recommended for younger viewers'. This signifies that the film may include content that is

not suitable for younger people, and so it is intended to encourage guardians to read any accompanying descriptive notes to determine whether or not to watch the film. The third rating used is 'M' – if given this rating, the film is suitable for mature audiences aged 16 and over. Films with this rating will often contain adult themes, and though not restricted, they are generally not regarded as suitable for young children. The labels are colour coded in much the same way as traffic lights - the 'G' label is a bold 'G' on a green circle background, while the 'PG' label has a yellow background. Green means 'go', suitable for everyone; Yellow means caution, this may not be suitable for some people so take a second look; Red (restricted classifications) means stop, not everyone is allowed access to this publication.



The labels issued by the Film and Video Labelling Body (in the case of ratings) and the Office of Film and Literature Classification (in the case of classifications) are required under the Films, Videos and Publications Classification Act

1993 (Part 8 s120) to be displayed with both the film itself and with any accompanying promotional material for the film, such as posters, fliers, and session advertising. It is an offence under the Films, Videos and Publications

Classification Act 1993 to allow a person who is excluded by the classification of film access to the film in question. This offence is punishable by a fine of up to \$3000 for an individual and \$10,000 for a body corporate (Part 8, s125).

A particular point of difficulty occurred in 2005 when a film was rated RP16, meaning children under the age of 16 were not allowed to attend unless accompanied by a parent or guardian, or a schoolteacher. Theatre management sought clarification of this classification from the Office of Film and Literature Classification. The response was that the person under 16 was only to be admitted when accompanied by their own parent, guardian or school teacher (not an aunt, older sibling, or friend's parent), and that proof of that relationship was to be produced prior to allowing entry. This put staff in the awkward position of having to ask parents to prove their relationship to their children (such as by both parties showing id bearing the same surname). However, it was then confirmed by the Office of Film and Literature Classification that the rating was not RP16, and that this rating had not existed since 1984. The correct rating was simply 'R', which indicated that it had been restricted in some way, the details of this restriction being noted on the right-hand side of the classification sticker under the censor's notes. In this case, the restriction meant "Objectionable except if the availability of the publication is restricted to persons who have attained the age of 16 years or who are accompanied by a parent or guardian". As the Office of Film and Literature Classification did not define guardian, they argued that it was up to the discretion of the cinemas to allow a child under the age of 16 to attend with any person who was acting in the role of a parent. Therefore, upon re-assessment, it was possible for older siblings or non-relations to accompany a child under 16 to this R rated film, without proof of guardianship.

In addition to the films themselves, all film advertising is rated and is subject to classification, including film trailers. There have been numerous complaints made to the Office of Film and Literature Classification about 'inappropriate trailers' being screened with particular movies. As a result, in 2004 the Labelling Body distributed guidelines to cinemas as to which trailers "can be appropriately screened before unrestricted features" (OFLC Annual Report, 2004, p.10). The guidelines were produced by the Labelling Body in consultation with both cinemas and the Classification Office. This seems to have had the desired effect, as the classification office received no further complaints about trailers in 2004, though informal complaints are still occasionally made at cinemas.

*That's another thing that often gets confused is that when people are sitting in a theatre for example, and they're watching the trailers, and they show a movie for an R16 and R18 film, a trailer for that, and the movie's PG...we try and avoid that obviously, but, let's say, Mum's sitting in Dukes of Hazard, which is M, and Saw 2 comes on, which is probably going to be an R18, and it's quite graphic, or appears quite graphic, and its R18. We've had complaints from people saying "why was that R18 trailer on that movie, my son's disturbed by that trailer". But that trailer is also rated. And so the trailer is rated as M.*

**Q:** *Would that be a pretty standard thing?*

**A:** *That's absolutely standard, it's absolutely the way it is. All trailers are rated, to a particular rating. So, you can't put a, you know, you shouldn't be putting a... in fact, most trailers are rated M, in fact, I don't think there's ever been an R13 trailer or an R16 trailer. In fact, the highest rating I think they'll go for is an M, which means they can go on PG, they can go on G, they can go on M.*

**Q:** *It's more discretionary?*

**A:** *Yes, and so, if a parent sees a film that's being advertised which is R16 - we've had complaints from people - how we deal with that is that we then turn around, and we watch the trailer. I mean, I don't see every trailer that goes through, so, that's where I will go downstairs. I'll actually sit down, I'll watch the trailer, and I'll make a conscious decision. Because I'm a parent, I'll make the conscious decision in my mind, would I object to my son watching that? Even though, technically, the trailer is totally fine. And there have been the odd one or two times where we've actually gone, "that trailer should not be on that film", because the demographic of that film is your 2 year olds, or your 7 year olds, and we're showing a movie that's more of a demographic of your 13 year olds, so we'll actually pull it off and stick it somewhere else.*

**Q:** *When the trailers come in, have they generally got that indication on them somewhere, for the projectionist? For the film? How do you know what the trailers are, do you get sent it?*

**A:** *We get sent a trailer list, from our advertisers.*

**Q:** *They'll have the ratings on them?*

**A:** *Yes, and all the bits and bobs on that list. Again, they don't rate trailers higher than M because then you wouldn't be able to put them on anything practically. You know, because they want... at the end of the day, a trailer is an advertisement, and it is there to get as wide a range of people to see it as possible.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

The classifications given to films by the Chief Censor are an integral component of the way in which a cinema operates and relates to its staff and patrons. However, their effective application relies heavily on the actions of numerous actors and programs.

## 4.5 Negotiating Films and Classifications

Though classifications may influence a person's choice of film to see, particularly if they are attending the film with another person, they are often not the primary factor in film selection. Many often have read or heard about a film prior to arriving at the cinema. However, this is not always the case, and even if one is not a regular attendee at the cinema, the advertising in place is intended to enable customer's decisions as to whether the film may be one they would like to watch. Within a multiplex, films are competing for patrons, and so use images, quotes, and synopses to capture the interest of potential viewers.



*Moving through the cinema building, we encounter another form of film promotion and potential site of classification being put into practice. The first poster on the right hand side is of a new film from the producers of a controversial (due to its handling of issues of race and sexuality) R18 Oscar-winning film. The visual does not give away much, just an image of the main actor. On the bottom of the poster, in the centre, there is a sticker that is approximately three centimetres tall and four centimetres wide. It is at eye level (the poster being mounted quite high on the wall) and displays a red circle with the symbol "Restricted 16" in bold black print. Underneath the red circle are the words: "Films, Videos and Publications Classifications Act 1993". The sticker is divided into two sections; the circle (the classification itself) on the left, while on the right is the meaning of the classification given: "Restricted to persons 16 years and over". Beneath this is extra information on the reasons for classifying the film in this way: "Note: Contains violence, sexual themes and content that may disturb".*



*Looking across to the poster on the other side of the entrance, the image conveys the sense of a different genre of film. The poster shows the smiling face of young boy, and uses the term ‘imagination’ in the text. Again, the classification sticker is located in a noticeable place at eye level. This time it is a yellow sticker, encapsulating the text “PG”. Again, underneath the circle is the title of the relevant legislation, and on the right-hand side of the sticker we read: “Parental Guidance Recommended for Younger Viewers Note: Adult Themes”. This is a little more vague than the classification for the other film – ‘Adult Themes’ hardly gives an indication of the type of content for which parental guidance may be advisable.*

*Travelling up the stairs, there is a poster with a simple visual of a man gazing into the distance, the image flanked by announcement of the film’s numerous awards. Text on the poster proclaims that it is based on a true story, implying that it probably falls into the genre of drama. There is a yellow circle on the classification sticker, again it is located at eye level on the poster. The classification here is “M”, meaning this film is “suitable for Mature Audiences 16 Years and Over Adult Themes”. Here is a recommendation but not a restriction, creating the potential for viewers of any age to see the film should they wish. Under the sticker, some text has been blacked out, which upon closer inspection can be made out to read, “recommended for 15 years and over”. Here an attempt has been made to hide the inconsistency in international rating systems applied to this film.*

*Opposite “M” and next to “R16” is the last poster decorating the cinema entrance. This poster has an interesting look to it, with a number of big-name actors featured and with the name of a notorious cult director splashed across the poster amongst the other directing credits. The classification issued here is “R18” on a red circle, “restricted to persons 18 years and over, Note: Contains graphic violence”. Again, for the restricted film more detail is given as to the reasons for its classification than is provided for the unrestricted titles.*

*At the top of the stairs are two large banners for an upcoming film – it is the remake of a classic story with prominent actors shown, however no hint of classification (New Zealand or otherwise) is given.*

*Upon arrival in the cinema foyer, there are numerous promotional materials to peruse, continuing the pattern illustrated at the cinema entrance with flyers bearing no classification indication, posters displaying the relevant stickers, and three-dimensional promotional standees providing no censorship information. All but one poster*

*displays a classification sticker – an oversight by the cinema?*

*Next to the Ticket Sales, there is a large chalkboard, with film reviews from newspapers posted to enable patrons to gather information to assist in their movie selection. These reviews do not give the classifications of the films, but do provide insight into the content of the film.*

*- Field Research at Smaller Cinema Complex, 07/10/2005.*

The goal for the management of a cinema is to attract customers against the threat of competing entertainment providers, and certain cinemas will inevitably attract different types of patronage due to the types of films they screen. While cinemas are obligated by law, namely the Films, Videos and Publications Classification Act 1993, Part 3 s27, to ensure censorship classifications are enforced at all times, there are situations in which this enforcement is required to be more assertive in response to both the actions of the movie-going public and the films themselves.

*There are flyers on either side of the staircase, four posters lining the entrance, and two large banners hanging up at the top of the stairs. Upon closer inspection, there are flyers for individual movies, a film festival and movie guide of upcoming films. This is the first (albeit indirect) interaction between the customer and the film. These pieces of paper give illustrations of the film, a brief synopsis, and without exception quote a magazine or film critic who praises the film. But what about censorship information for these ‘highly acclaimed’ films? The advertised film festival is still a few months away, and advises those interested that censorship on these films is pending and suggests that they check the film festival’s website. The film guide gives information on each film, and in the category of ‘rating’ gives the reader the classification of the film (but does not include notes) or informs that the classification is ‘TBA’ (To Be Announced).*

*- Field Research at Smaller Cinema Complex, 07/10/2005.*

Films which are given a restricted rating are arguably harder to market, not only as the audience for the film is limited to people of a certain age group, but also as the placement of a restrictive rating can deter other patrons from attending as they may conclude that a restricted film will not be tasteful or agreeable to their viewing preferences.

*When you're talking about like today, Deuce Bigalow 2, the first Deuce Bigalow as an M or an R13 or something, it was quite low rated. This one is R16. So people who [came to see the first one], or who have got it out on video and watched it at home, thought 'I want to watch that in the sequel'. They're going to be primarily younger, because it's that kind of a film. Unleashed, which is another film that opened today which is R18, primarily that is an action, martial arts, lot of graphic violence. So obviously, a higher rating on that again, but again, that is the film that most kids want to see these days. Most of the teenagers, most of the kids who are playing video games, like Doom and Halo and that, that's what they want to go and see, and we're having to tell them no.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

At the same time a restricted rating on a film can also increase the awareness and popularity of a film through the creation of notoriety. This occurs particularly if a film has received media attention for being borderline objectionable, or if many consider the restrictive rating to be inappropriate (that is, too high or too low). Outside of these scenarios, sometimes a film will receive attention simply for the themes it depicts. When a film in this way becomes particularly noteworthy, the necessity for strict enforcement of censorship classification at the site of consumption (the cinema) increases, as younger people may be more inclined to attempt to gain admission to these sorts of films. For example, two films screened recently at local cinemas, both rated R16. One was a film about a paedophile attempting to reintegrate into society after a term in prison, while the other was a film about marionettes wreaking havoc and engaging in sexual activity and profanity. Due to the type of content and thematic material covered in each film, largely different audiences were drawn to each, with the first attracting an older clientele (predominantly ages 20-50) and the second drawing on a much younger crowd (predominantly teenagers). Consequently, while staff were only required to request identification from patrons for the first movie occasionally, the majority of patrons for the second film were required to present identification to gain admission. In addition, many patrons were turned away at the entrance to the theatre for being underage (after having attempted to use older friends to purchase tickets at the Box Office).

Despite the type of classification placed on a film, it is often the nature of the film itself that affects the way censorship is enforced in the cinema. When it is anticipated by cinema management that a film may present particular difficulties in regards to censorship (that is, they anticipate younger people will attempt to gain entry), steps will be taken to ensure that the cinema performs its role as an enforcer of the classifications. Such steps include creating extra signage or emphasis on the classification and need for patrons to bring identification on the automated movie information line. Other steps may include reminding staff of their duties and obligations, and placing staff that are more experienced at Box Office. The regularity with which this emphasis on the role of the cinema workers is placed depends both upon the films being released and upon the turnover of staff.

Another influencing factor on the tendency of people to try to circumvent the regulations of the Chief Censor's classifications is the proficiency of the cinema in monitoring and regulating ticket sales and admission to restricted films. Some cinemas screen restricted films more frequently than others, and as a result their staff are likely to be experienced in asking for identification and monitoring entry to theatres. At cinemas where restricted films do not screen as regularly, staff may not have the same degree of experience, however, the rarity of the classification at that particular complex may increase staff awareness of the film and its attendants (as opposed to a more every-day attitude at other cinemas).

In addition to varying levels of employee commitment, the degree to which the enforcement of censorship classifications at the cinema is practised without complication is dependent largely on the movie going public's knowledge of the classifications and their implications. Those who attend the cinema more frequently may be more likely to understand the 'local cultural conditions' (Johnson, 1988, p.301) regarding admission systems. The growing market of those who attend the cinema has increased the number of patrons who are less familiar with the workings of such industrial leisure businesses – "inexperienced punters" as described by Austrin and West (2005, p.313) – who need to be informed, explained to, and taught

to adhere to the governing systems of the cinema (such as to bring appropriate proof of age identification to a restricted film).

Q: Do you think, do you find, that many people understand what an R16 film, what that classification means?

A: *I think there is a huge, complete misconception. I think a lot of people think they know the law, and that... I mean, I've been in the industry almost 6 years, and it would definitely appear that most people, what they think the law is and what the law actually is are two totally separate things. The biggest misconception is that an R13 and R15 and R16 and R18, whatever it might be, that if the parent says, "but I'm saying it's ok for my child to see that film" - the reality is that we turn around and say, "well, no, the law says they can't see it". It is clear-cut; they have to be that age. You can't just say, 'well they're 12 and I want them to see it', or 'they're going with me', or 'I give my permission'. And the kids are the same though. A lot of kids just think they can go along with their parents, and they'll get in, and we find that they don't know [the rules], and their parents in general get very disgruntled because I think what a lot of parents find when they're in that position where they're being told no, you can't do that, they're saying 'well hang on, that's my child and I make the rules up at my house'. Then what generally happens is that the parents get irate at the staff member or the manager, whoever it is that they're dealing with, and they actually take it as a personal insult to them, that they are not allowed to direct what their child does.*

- Interview with Cinema Complex Manager, 07/10/2005.

## 4.6 Staff

Not surprisingly, certain classifications are preferred by cinema employees than others. On the whole, non-restricted films are desirable as the process of asking someone for identification can be uncomfortable, particularly for younger staff members, as it often results in a confrontational situation. Another classification that causes particular trouble for cinemas is the R13 classification. The reason this is more troublesome than other restrictions is that thirteen year-olds generally do not have any sort of identification to prove their age – they do not have a driver's licence, often do not have a passport, and do not always have a school identification card, particularly if they have not reached high



school yet. The only thing they can do in this situation is bring in a birth certificate, and some sort of additional proof that the certificate is their own. This problem is one that inevitably occurs when films with a R13 rating are released:

*One of the biggest problems is also that having a restricting system, whether it's cigarettes or drinking or whatever, banks on the fact that the person who is coming in, making the purchase, if they're not able to ... if you don't think they're old enough, they have to produce some form of ID. Which is ok when you're talking about an R18, because most 18 year olds, not all, but most 18 year olds will have a licence. R16, it starts getting a little grey, but then we say, well, most high schools these days issue a pass. But then you get to R13, and no primary school, well, not many primary schools, issue a student id for kids at 13 years old. Because some 13 year olds are still at primary school, they're not at high school. And they don't have driver's licences and they don't carry their birth certificate with them. They don't carry it because there's no need.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

In the case of the R18 classification, there is a slight advantage in that this age group may be more accustomed to carrying forms of identification for the purposes of purchasing alcohol. As mentioned previously, staff are advised to err on the side of caution. However, this often results in identification being produced stating the patron is in their twenties. While this may be an inconvenience for both staff and cinema goers, it is a more desirable outcome from the point of view of the cinema than not asking for ID and allowing an underage patron in.

**Q:** Do you have trouble also with people who say they are 16 and but they haven't brought their ID?

**A:** *Yes. I mean, again, we have a policy here which is pretty cut and dry. If you come in, and you clearly are old enough, you know, maturity wise, we're going to sell them that ticket. If they come in and they don't have ID and they're buying the ticket for a later movie - which is generally the old trick where people come in, buy their tickets and then hand them off to people who aren't 16, thinking that they will get through - when they come to the control point, that's like our last line of defence. If the guy hands a ticket to the control point staff member, and says, "here's my ticket", the [staff member] thinks, "you look like you're 12", they are not going to let them in. So even though the 18 year old or 20 year old might have bought them the ticket and handed it off, they're not going to get in. So what we do is at time of sale, we actually say to people, "look, if you've got*

*anybody who looks young, or younger than 16, make sure they bring their ID because they might get stopped at the door and they may not get let in”.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

Staff are also encouraged to build their knowledge of the films playing in the cinemas to assist patrons in movie selection. While films given an ‘M’ rating are not restricted, they are often not suitable for younger children, and by being familiar with the content of the film staff may be able to give parents extra

information to decide whether their child should see it.

The same also applies to restricted films, as though these

are often accompanied by censor’s notes explaining the

reasons for the restricted classification, these are not

always detailed. Arguably, this is done so as to not give away elements of the story.

However, a note saying a film contains ‘Violence, Sexual Themes and Content that May Disturb’ does not inform the patron that the film deals with, for example,

paedophilia. None of the supporting written promotional material makes the patron

aware of this, though it is strongly hinted at in the trailer for the film. At the staff

member’s discretion, when asked about the content of the film they may inform that

patron of the more specific themes it deals with. Ultimately however, cinema staff are

not in a position to deny a person entry to a film which they are legally entitled to see,

despite concerns by parents that M-rated content may not be suitable for their child, as

illustrated by the following quote:



*I was saying about people not understanding the rating system, the M rating for example is one that we get really weird questions about. And mothers ring up and say, “I’m really pissed off with you, you let my son into an M rated film”. And you go, “well, it’s ok, why wouldn’t I?” And they go, “because I didn’t want him to see that film”. And then, it’ll come down to something like, and this just happened, 2 days, 3 days ago. A woman rang me and said that she was angry because this child had gone to this M rated film. And I said, “well, what did you do?” And she said, “well, I dropped them off here with the money and they were going to go see Wallace and Gromit”, which is rated like G. I said, “and what did they go and see?” And she goes, “they saw Dukes of Hazard, which I had heard, I have heard from other people has got lots of sex and swearing”,*

*and I said “well, you know, did you see them into the theatre, or did you even buy the tickets for them?” And she said, “no, I just dropped them off.” It’s out of our hands. I can’t direct your child what to do. And I can’t tell that child he can’t see an M rated film, because legally he can. I have no right to tell that child what he can and can’t see. You know, provided he’s legally able to see it.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

### 4.6.1 Training

While some theorists such as Hochschild (1983, p.9) suggest that “nowadays most jobs call for a capacity to deal with people rather than with things, for more interpersonal skills and few mechanical skills”, using an Actor Network approach to look at cinemas this appears not to be the case. Rather, there is a requirement for an equal negotiation and interaction with both people and things in many workplaces. The cinema is no exception to this. Staff are trained to relate to the customers, and encouraged to convey a positive and enthusiastic manner whilst on shift in a style not dissimilar to that which is mentioned in Hochschild’s discussion of the nature of work of flight attendants (1983). Cinema staff are also required to master the use of the tools required for the cinema’s day-to-day operation (generally excluding projection and supervisory duties). The co-ordination of walkie-talkie useage, shift sheets, uniform, Box Office information and complex layout is essential in censorship enforcement at the cinema, in the same way that such skills are described by Austrin and West (2005) as being integral to table games in the casino:

Like much other service sector work, emotional labour, self-monitoring and social relations are important, but technical skills – the handling of things – are far more crucial than these in managing table games.

(p.313).

From checking identification at Box Office, to monitoring admission at the theatre doors, to providing a general regulatory presence around the complex, it is the staff that enforce the classifications of the chief censor by ensuring that only people of the appropriate age gain admission to theatres showing restricted films. Training is given using a standardised set of documentation, giving step-by-step instructions for service



in each aspect of the complex, attempting to create a mutual understanding between the employee and the employer as to what is expected on the job. This process can be compared to Orr's comments on the use of what he refers to as 'directive documentation':

Directive documentation belongs to the scientific management tradition of attempting to rationalise the work process (Braverman 1974). The basic premise of scientific management is that one can reduce the best way to do a given job to a set of instructions to someone who does not know how to do it independently but who will then be able to do the job by following the instructions. In this way, management gets control over their employees, through control of the knowledge necessary to do the job...The whole enterprise rests on the ability to define the best way to do the job and then to provide adequate instructions.

(1998, p.107).

Orr goes on to argue, however, that such documentation is never enough to completely ensure a specific outcome (p.110). In the cinema, staff are given training in steps to take to fulfil their duties and additional coaching in techniques to manage situations where conflict is anticipated. However, as with Orr's technicians, issues inevitably arise when delegating to human actors over (usually) ever present and working non-humans (such as signage, directive passage-ways and tickets). The problem of staff fallibility is compounded by the agency invoked by patrons who knowingly or otherwise 'break the rules' which organise the cinema and use deception to purchase tickets to which they are not entitled, or who wander into the incorrect theatre. In Johnson's discussion of the sociology of a door-closer, he describes the problems that occur when enrolling humans to perform tasks, which inevitably results in (at the very least) an inconsistency of application. He outlines options available to those in charge of this social space in order to rectify the situation – "either to discipline the people or to *substitute* for the unreliable people another *delegated human character* whose only function is to open and close the door" (Johnson, 1988, p.299, original emphasis). In the cinema, this is applied by the appointment of a staff member whose primary task is to monitor all patrons entering the theatres. Johnson also points out however, that while the situation is simplified by delegating a sole actor to monitor and control the situation, the "weak point of the

tactic” is the potential unreliability of this human delegate (p.300). This is compounded in those circumstances where one cinema attendant is required to monitor a number of theatres. These instances are recognised as a calculated risk where it is acknowledged by the staff that they will not be able to check everyone’s tickets. In order to minimise this weakness, they are instructed to take certain steps such as doing head counts, asking other staff to assist, and managing their time in order to be able to check as many tickets as possible. As argued by Orr (1998, p.114), staff are at times required to improvise in order to produce adequate solutions.

Q: On average, how many staff do you have on shift? Or particularly when it’s busy, like today in school holidays?

A: *Basically it’s run on a ‘needs’ basis, so for example we have a staff of about 60 people, on average, most of the time, made of full time, a few full time and a lot of part time staff. The basic rule of thumb is that as we gain more patrons, every 100 patrons we’re adding on, we add on another staff member. So, we could have in really peak periods, where you’re having, say, two to three hundred people through in a day, we might have 20 of those staff actually working on that one day. The next day it might only be 10 staff, if the numbers have dropped back.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

Staff on shift are assigned a station of work by the duty manager, and will be allocated to Box Office, Candy Bar or Floor for the duration of the shift. When assigning staff, the duty manager takes into consideration how busy it is expected to be, the skill level of each staff member in relation to each workstation, and the number of points of sale that will be required. Generally, it is desirable to team newer staff with more experienced cinema attendants, but if only a small number of people are rostered to work, newer staff are generally assigned to Floor as there is no cash handling, and it is considered the most straight forward aspect of the job. Again, this delegation of less experienced staff to simpler areas of the business, where they can do the least ‘harm’, is not isolated to cinemas. It is such a common practice at hotel-casinos that these newer employees are nicknamed ‘lumpies’ (Austrin and West, 2005, p.316), until such a time as they have proven themselves competent enough to be assigned to more crucial areas, such as table games. The equivalent title used at the cinema (though generally amongst management and not directly with cinema attendants) is ‘newbie’,

and the time it takes to shed that title will vary in relation to the aptitude of the individual employee. At the cinema, those employees who have ‘graduated’ beyond then newbie-status are assigned to Box Office, especially when restricted films are showing (that is, Box Office initial training is avoided at such times).



The need for patrons to carry proof-of-age identification when attending a restricted film is reinforced throughout the complex, through displays of censorship classifications next to film titles on times boards and prompting from staff at different points of interaction.

While not strictly enforced, at times staff at the Candy Bar may be encouraged to emphasise this point to their customers:

*What we also do, is the staff on [candy bar] will often say [to the customers] while they're buying the food, "oh, what film are you going to?" And the guys will go, "oh, I'm going to see such and such", "oh yeah, it's a great film, I've seen it myself". But if they say, "I'm going to see an R16", often they'll, some of them, the smarter ones, will just say, "oh, don't forget, you've got to have ID for that one".*

*- Interview with Cinema Complex Manager, 07/10/2005.*



#### 4.6.2 Mobile Staff

While staff at Box Office and Candy Bar are restricted to their stations, Floor staff and the duty manager are able to move around the complex, their greater mobility increasing their potential to track and patrol the passages, toilets and foyer. However, this is not generally structured, and is more likely to occur incidentally as staff go about doing other duties on shift such as cleaning assignments, potentially leaving some areas unattended for considerable lengths of time.



*The Box Office and Candy Bar are located side-by-side, in a long counter attended by employees serving the various customers. There are not many staff, and during the downtimes when not serving, the area behind the counter often appears empty. Staff do not routinely patrol the foyer, leaving patrons potentially unobserved and unmonitored.*

*- Field Research at Smaller Cinema Complex, 07/10/2005.*



A fourth area at which patron movement is monitored and regulated is the Barrier, or Control Point. This is a designated point through which all patrons must pass to gain access to the cinema. While this is a standard feature of most multiplexes, the smaller theatre observed in this research does not have a physical barrier in place at the entrance of the theatres. Instead, staff are required to manage their time in order to meet patrons at the head of the cinema lobby and direct them to the theatre, however if they are otherwise occupied patrons access theatres without staff assistance<sup>4</sup> (with a generally high degree of success and accuracy). While staff will try to check each patron's ticket, as there is usually one staff member on Floor it is physically impossible for them to do so.

**Q:** How many people do you generally have around the cinemas themselves, ushering?

**A:** *Usually there's one person who is on what we call the Control Point. And their job is to sort of stop the flow of traffic, hold people up while we're cleaning cinemas and then move people through who are actually going to see a movie that might be just about to start. Then there can be anywhere up to, upwards of 6 people on the Floor itself, ushering in cinemas whilst at the same time cleaning other*

<sup>4</sup> At this theatre, tickets are torn and validated at the Box Office.

*ones as they're coming out.*

Q: So there's not obviously 8 attendants for 8 cinemas, but they are dedicated to keeping an eye on those theatres.

A: *That's right, again it's all about whether or not there is a need. The biggest problem we have, and today is probably a pretty good example, is that historically, we're always working on historical figures, and we look at yesterday's result, or the day before's result, and you say, 'well look, it was much busier than expected, therefore, we'll get some more people on'. Also things like weather come in to play as well, so we're looking at the figures and deciding that we'll need to put more people on. But the historic figures have been telling us that it's not busy. So here we go into a day where we've staffed it to 'not busy' and the weather is ok, and yet we're absolutely run off our feet, and we're having to bring in extra staff, I'm trying to bring in a few extra staff to actually cope with the volume.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

As a result of such unpredictable flows, it is not unusual for staff to become significantly outnumbered by patrons. However, as this can also be anticipated, cinemas regard it as crucial that all staff are trained in the cinema's policies and procedures to ensure that sessions run smoothly (through efficient regulation of bodies), and that every patron pays for a ticket and moves through the complex appropriately. In order to do this, staff must have a comprehensive knowledge of the complex's layout and the ability to utilise the tools at hand to monitor and police the traffic flow of people. This is learned through training by other staff members and from personal experience of the intricacies of the everyday work. In his discussion of the workings of government agencies, Wilson's description of the factors that influence the execution of one's job can be transferred from his examples of prisons and mental hospitals to the cinema:

Precisely how you go about achieving and maintaining control will vary with your personality and the administration of the [business/prison]...*How* you perform your task will vary depending on how you, in turn, are supervised, but the central problem will be defined, whatever that supervision may be, by the imperatives of the situation you confront daily... In this respect, you as an attendant were in much the same position as a prison guard or patrol officer – asserting and maintaining control, even though legally the persons in your charge were not suspects or convicts.

(1989, p.39).

Though signage is present throughout the complex to convey to patrons films with a restricted rating may only be attended by people of that age and over, and that identification may be required to confirm the age of the person, this alone does not ensure that underage people do not purchase tickets. It is the (arguably variable) vigilance of the staff that is required to perform this task. When a patron approaches the Box Office requesting a ticket for a restricted film, the staff member must assess whether the person is over the required age and if they should ask for identification. Proof of age identification must be provided, generally in the form of a valid driver's licence, student card (with date of birth shown) or passport. Sometimes the dilemma (as it often feels to Box Office staff, particularly younger staff members or those who may not have had much experience with this part of the job) of deciding to ask for ID is averted by asking if the patron has any discount cards such as a student identification. If a university student card is presented, this generally eliminates the need to ask for proof of age documentation if the film of interest is classified R16 or lower. There is a sign detailing the legal ramifications of breaking the censorship laws, which is put on display on the counter when restricted films are screening. If it is particularly busy, or identification is repeatedly being asked for, that sign may be shifted by the Box Office staff or the duty manager to a more prominent location between the Box Office computers.



Sometimes situations occur which leave staff scratching their heads in confusion over the patron they have interacted with. Some patrons will stand at the counter and argue with staff members, trying to convince them that it is not necessary for them to produce identification, while others will blatantly tell staff that they are going to buy a ticket for another movie but still go to the one they have been denied access to. In many cases, after having argued the point, patrons will in fact produce the requested identification – why they did not simply do this when first asked is a source of bewilderment to staff:

*Patron:* Hi, I want three to the 8:30 screening of X. I've got a [cinema loyalty] card and the other one is a child.

*Staff member:* How old is the child?

*Patron:* He's 15.

*Staff member:* I'm sorry, but that movie is R16 so he can't go to it.

*Patron:* Come on, nobody's going to know, just give me the ticket.

*Staff member:* No, I can't, sorry.

*Patron:* Fine, I'll just get it later when we come back for the movie.

*After this incident, the Box office attendant informed the rest of the staff on shift of the situation, advising them not to sell a third ticket to the patron without ensuring there was identification with it. In particular it was emphasised that the cinema attendant checking tickets was to make sure that people for that film had tickets for the correct price category (to make sure a child wasn't using an adult ticket) and to ask identification of anyone who looked young. When the man and his family returned later in the evening, it turned out that the child in question had turned 16 two days earlier, was able to provide the required identification, and thus was eligible to purchase a ticket and attend the film. Staff were left wondering whether the man had simply been trying to rile them up or whether he just didn't know when his son's birthday was.*

*- Field Research at Smaller Cinema Complex, 07/10/2005.*

As part of their training, generally carried out by experienced cinema attendants and overseen by a supervisor who has been delegated the task of staff training, staff are informed of the classifications applied to films and their role in ensuring these are upheld. In an orientation session, new staff are told what the classifications are, what they mean in practical terms, and are given examples of the sorts of films that get certain ratings. A point emphasised in training is that no one under the appropriate age may go into a restricted film – not a child accompanied by his or her parents, not a baby, not even staff who are underage.

*Q:* Are the majority of your staff younger people?

*A:* Yes, and that, again, that's an interesting point, because we have staff here from age 15. We're showing R18 films... But the thing is, those checks on restricted films, we don't allow our underage staff to go in and check those films, because they can't. So we're that pedantic, to the point where we don't have projectionists younger than 18, because the projectionist has to look out the window and see the film. We couldn't have a 17 year old or a 16 year old in there watching an R18 film, because we'd be breaking the law. So, all of

*our staff, when they're doing restricted checks, they have to go and get an 18 year old, or a manager has to go in and actually check it. If all the staff were too young to go in, a manager would have to do it.*

*- Interview with Cinema Complex Manager, 7/10/2005.*

*A man and a woman approached the candy bar to purchase items for the movie. As the candy bar attendant was serving them, the nearby supervisor noticed the handles of a baby pram poking up above the counter. Having walked past the box office as the man had purchased the tickets, the supervisor suspected they may have been going to an R16 movie. While the couple were still at the candy bar, the supervisor checked the ticket sales on the computer and asked the box office attendant what film the couple were seeing. Upon confirming that they had bought tickets for an R16 film, the supervisor was required to approach the patrons and inform they would be unable to attend the screening with their child. When the patrons queried this, pointing out that the child was asleep, the supervisor explained the restrictions, and offered a full refund, adding that the cinema attendant had not realised the couple had a child with them. The patrons accepted this, and as they were no other movies on at the time, they left. When asked if he had realised the couple had a child, the box office attendant said no he had not, but asked, "can they not take the baby into the movie?" This was a bit frustrating to the supervisor, as the attendant was not a new staff member and should have known the correct answer. After a light reprimand, he apologised and said it would not happen again.*

*- Field Research at Smaller Cinema Complex, 07/10/2005.*

### 4.6.3 Training for Surveillance

When staff are trained on Floor (ushering, cleaning cinemas), they are reminded that they are required to check identification of patrons entering restricted theatres if they suspect the patron is underage. While identification should be asked for at the Box Office, it is possible, as mentioned above, for older patrons to purchase tickets and then hand them to younger patrons prior to entering the cinema. Signage informing patrons of the conditions of entry (including the right to request identification for admission to restricted films) are on the door of each individual theatre. Staff (including projectionists) are instructed to call for a supervisor or send





the patron back to the Box Office if they suspect that an underage person is attempting to get into a movie. Staff are also required to check theatres at least twice during the progression of the movie, once at the start and once halfway through. In all films, but particularly in restricted sessions, staff are advised to do a headcount and make sure the number of people in the theatre correlates with the number of tickets sold, particularly at the second check as patrons may have changed theatres after the initial check. There is generally only one staff member monitoring the cinemas, and they may not be able to check every ticket as they may need to leave their post to clean cinemas (sessions often start close together). If the staff member feels it is required, they can radio for another staff member to check tickets while they clean or check another theatre, but this is not always possible depending on how busy it is in other areas. While there is no official directive from the Censorship Compliance Unit to do so, supervisors will at times suggest that the Floor staff member privilege the



restricted theatre over unrestricted films. While all still need to be monitored, to ensure patrons are comfortable, behaving and that the film is running correctly, it is the restricted film that carries penalties should underage patrons gain entry.

*We have what are called cinema checks, because you were wondering about other things we do, well, the other things we obviously do is, in an R18 you go in to do a cinema check to make sure the film's in frame, and that it sounds ok and that there's nothing wrong with it and the behaviour of the people watching it is ok. In an R18 film, they generally don't have many people in them, because you're restricting a lot of the audience who can see it, so we know how many tickets we've sold. So for example, in an R18 film, if we sell 20 tickets to a film, and a staff member goes in there and there's a lot of people sitting in there you know something weird has gone on. So, its very easy for them to do a quick head count, and go "oh, you know, there's 6 more people in here than there should be". They can actually then work out from those seats, and we have a seating plan that comes in as well, because we allocate all our seating, we can actually work out from the seating plan who's sitting where they shouldn't be, and then we just walk in and say, "excuse me, can you come with us, show us your tickets", catch them out.*

*- Interview with Cinema Complex Manager, 7/10/2005.*

Each month staff are evaluated on their performance around the theatre. Management use a checklist, which is also used in the training process, to ensure a uniform style and high level of service is carried out by all staff. Staff are monitored, and re-training is carried out if required, with those employees who continue to require assistance being more closely monitored. However, it is generally only through practice and experience that staff learn the methods to solve problems that arise on shift. Comparisons can be made to the relationship between trainers and trainees at hotel-casinos:

More generally, in table gaming, in all national jurisdictions, surveillance operates selectively. This means attention is paid to those less skilled, to the lumpies in the job, and to dealers on high stakes tables (Sallaz, 2002:409). For the experienced dealer the 'situational imperatives' (Wilson, 1989) of the job are such that control of the table is exercised best over those who are most skilled at playing the games. Dealers who are new to the job and self-conscious about the mistakes, find this difficult to cope with. However, they come to realise that games played by skilled punters are more focused and faster and therefore less 'trouble'. Thus after some time dealers who move to higher paying tables become relaxed over the issue of being watched by the camera. Having acquired their 'skill and reputation' the job becomes more routine. They acquire the trust of the inspectors and feel that if they make an error it will be detected. The policing/surveillance apparatus comes therefore to be interpreted as much as a form of support for them as a means of control over them.

(Austrin & West, 2005, pp.316-317).

A focus of the evaluations at Floor and Box Office relate to the staff member's knowledge of the enforcement of censorship classifications in the cinema. They may be asked to list the restricted films currently screening, or be given a scenario such as what to do if a parent wants to take their infant to a R16 movie.

Q: Are the staff generally confident if they do find somebody in there, more people in there, or checking for ID?

A: *Yes. I mean, people actually take for granted the fact that when they're watching the film, they generally forget that somebody might watch them. And for example, our projectionists spot a lot of stuff going on in the cinemas, people with their feet up on the seats, people taking their shoes off, and people getting up to mischief. A projectionist walking past is always looking out the window, to see if the film is ok, then he'll have a quick glance, and we're always*

*hearing calls on the walkie-talkies like, “oh can you go tell the lady in the third row back to do x y z”. People just forget that we actually go in and do check and it is done in a way that is unobtrusive, because we don’t go in and make a big song and dance and shine our torches around. You do it in a way that’s unobtrusive, but people do forget that they are actually being looked at, and the staff are actually quite confident to walk up to somebody and go and say something.*

*- Interview with Cinema Complex Manager, 7/10/2005.*

The need for staff to be aware of classifications and their definitions is reinforced continually at the cinemas, either through testing in the course of ongoing training, or through practice as restricted films are released relatively frequently (Interview with Cinema Complex Manager, 7/10/2005). When requesting proof of age identification, often it will turn out that the person is in fact well over the age of restriction, and the patron will chuckle and obligingly hand over their identification. Staff may feel embarrassed afterwards but are reassured by management that it is better to err on the side of caution. However, when identification is not forthcoming, the staff member is required to deny entry to the patron. Trouble arises particularly in situations where more than just the individual underage patron is involved. This may be a group situation, where the rest of the group are able to produce proof of age but one cannot. Often staff will be pressured by the others to let the person in, at which point the staff member should stick to their training and refuse. The following are examples typical of the interactions that take place at Box Office when a film with a restricted classification is screening:

A.

*Staff member:* Hi, how are you this evening?

*Patron:* Fine thanks. I’ll have one for X.

*Staff member:* Okay, do you have some ID please?

*Patron:* Sorry?

*Staff member:* That film is rated R16.

*Patron:* Oh, I didn’t realise. Here.

*Staff member:* That’s fine, thank you.

B.

*Staff member:* Hi, how are you this evening?

*Patron:* Fine thanks. I’ll have one for X.

*Staff member:* Okay, do you have some ID please?

*Patron:* Ah, no, I don't.

*Staff member:* I'm sorry, that film is R18. I can't let you in without ID.

*Patron:* Really? Come on.

*Staff member:* Sorry, I can't.

*Patron:* [walks away, generally shooting the staff member a dirty look]

C.

*Staff member:* Hi, how are you this evening?

*Patron:* Fine thanks. I'll have an adult and a child for X.

*Staff member:* Ok, ah, how old is the child?

*Patron:* 12

*Staff member:* I'm sorry, that film is rated R13, so he can't go to that movie.

*Patron:* But I'm his Dad. Why can't he go with me?

*Staff member:* I'm sorry, the film is rated R13, which means absolutely no one under 13 can go to the movie.

*Patron:* That's ridiculous. We've come out tonight specially to see this, and now you're telling me we can't go in?

*Staff member:* Sorry.

*Patron:* I want to speak to the manager

*- Field Research at Smaller Cinema Complex, 07/10/2005.*

As illustrated by the above, reactions can range from surprise, to acceptance, to confusion, to anger. Unfortunately, when the act of asking for identification is unexpected by the patron, the situation often becomes confrontational, requiring staff to negotiate and manage situations which create the requirement for utilisation of a different set of skills and tools perhaps not used with other customers. As stated by Wilson (1989), "situational imperatives may seem to have their greatest effect on how operators define their tasks when the organisation must deal with un-cooperative or threatening clients face-to-face" (p.40). Patrons will on occasion become abusive towards staff members, who they accuse of being contrary and obstinate by refusing to allow them to purchase tickets.

*If [the staff] get a negative response from the person they speak to, and we do try, we're always trying to be polite but at the end of the day, you know, they've got a job to do. So if they get a negative response, then they might come out and say well, "I got told to f off, so I'll call a manager", and then a manager can come in.*

*- Interview with Cinema Complex Manager, 7/10/2005.*

It is the responsibility of the supervisor on shift to resolve conflicts with patrons and find appropriate solutions. These may vary from apologising and offering free passes if a mistake has been made on the part of the cinema, or at the other end of the scale asking the patron to leave the complex or banning them through issuing a trespass order, particularly if the patron becomes abusive towards staff. At times, complaints may be referred on to the Complex Manager to be resolved.

Q: Do you have any penalties for underage people that you catch, if they're trying to get in?

A: *We, we can't actually enforce any kind of... we can't put a penalty on it. It'd be good if we could, if we could issue tickets or something.*

Q: So, just 'don't come back here', or...

A: *Yes, the only penalties we can [enforce] are either a...it depends what they're doing. If they were underage and they're just underage, we just sort of ban them from the whole mall, as it is, through a trespass order. Or if they were doing something in there that was also damaging we could use our security, grab a hold of them, then security would deal with them, and that would involve bringing their parents in. But unfortunately there's nothing available for us to actually do really. It's a bit of, it's a one-way street. They can come in here and break the law but we can't do anything to stop them breaking the law other than ask them if they're old enough.*

*- Interview with Cinema Complex Manager, 7/10/2005.*

In cases where parents want to take their 16 year old child to see an R16 movie, but do not have identification, patrons often become defensive, and accuse staff of calling them liars by not believing the child is 16 (when the fact is that even people over the restricted age are often required to show identification to gain entry). The supervisor will usually also explain that it is a legal requirement and not something decided by the cinema itself (often the allegory of purchasing alcohol is made, with the advised rule-of-thumb being that if a person looks under 25 they should be asked for identification, though the legal age is 18). Encounters with disgruntled patrons occur with some frequency at most cinemas, and while some instances are due to technical or staff faults, the majority of conflicts occur over the enforcement of film classifications:

*Some even go off at the operators of cinemas, who refuse to let them go in with their 15 year old and its and R16 film, even though it's their birthday next month or something and they're particularly mature children and they're with their parents, etc. Parents cannot sign any kind of waiver, or supply anything that makes it legal for the cinema to show that film to those children. And so the bottom line is that they either see photographic identification or they're risking breaking the law and it's them, the cinema, that will get the warning or face prosecution. Not the parents. And that's why most cinemas now have those signs up, which say, "we can't show this film if you're underage. We want to see photographic identification. If you don't have it, no film. End of story". But all the time we get calls from cinemas who say, "we've had these parents in, they've been arguing black and blue with us, they've been shouting at our staff" and in one case making them cry, because they were really upset, because they thought they were going to go and see this film, and found that they weren't, couldn't, and were upset with the cinema operators and the staff who were on at the time. Which is unfortunate, but, there you go.*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

As has been discussed throughout this chapter, the ease with which the processes of censorship are put into practice, or alternatively, the minimalisation of potential conflicts with patrons, depends on a number of factors, including the notoriety of a film, employee (in)action, the patron's knowledge of censorship classifications, and the practice of patrons carrying proof of age identification with them. It also depends on the type of film that has been restricted. As argued earlier in the chapter, some films deal with themes or content that do not appeal to a younger audience, and so the need to ask for identification is often nonexistent, as the audience comprises mainly of older patrons. However, some films are more likely to appeal to a younger audience than it has been classified for, and this is where censorship systems come into more prominent practice within the cinema. Alternatively, the film may be one that parents want their child to see, and in these cases the staff are not only dealing with the underage patron but with their accompanying adults who frequently become argumentative feeling that the staff are quashing their 'right' to decide what their child can watch and invoke the arguments over the morals and justification of censorship commonly raised in the censorship debate (as discussed in Chapter 1).

Q: At the Control Point would people check for ID or would they generally send them back to the box office?

A: *If they've got absolutely no ID, and a decision has to be made, that's where again they call in the manager and the manager can just sit there and go, "ok yes", or "ok no, I'm not prepared to let you in". At that point, where we say, "no we're not going to let them in", and again it's always difficult when, you know, you can imagine a group of say five people going out, one person who's 16 or 17, or looks like they're 13, and they've all just had dinner and they've just come into the movies, they're all having a great jovial time, and then one of them gets told 'no, I'm not letting you in because you don't have ID'. It means you're going to lose five people's money, because they're all going to turn around and throw... and again sometimes they get aggressive, if they've gone out for a few drinks, usually there's a bit of aggression there as well. If it's the girl getting chucked out, and the boyfriend's ... usually they've got a bit of bravado there, then they tend to want to step up or have fights with the security staff, whatever it might be. There's just weird things that happen. But I can understand it from their perspective, because I would be disappointed as well, I'd be like, 'well what's going? I can't go see what I want to see', and I'd be annoyed... And we have had, I guess that's the other thing, we have had a lot of young couples, between lets say between the ages of about 18 and 30, who have come in with their baby. And the baby might be 3, 6, or 9 months old. They've planned a night out, going to see an R-rated movie, we don't let them.*

Q: That wouldn't go down very well

A: *It doesn't go down very well, and I mean, and I can see the argument, because again, as a parent, I know that my kid would sleep right through that film and, wouldn't even notice at that sort of 9 months age. But, you know, psychologists would then ask what damage are you doing to that child's psyche if that child is awake listening to blood-curdling screams and seeing horrible images on the screen. And we have had a few couples who have got really irate about the fact that we won't let them in there with their baby, but that's the way it is.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

#### 4.6.4 Surveillance Tools

Combining the technical expertise and craft skills of the croupier (dealer) in table games with increasingly deskilled machine-minding in simulated video games. There are parallels with other service work, but the significance of casino gaming lies in the manipulation of things, such as cards and money, rather than in interpersonal relations and self-embodiment.

(Austrin & West, 2005, p.305)

In the same ways casino employees are required to utilise and negotiate a number of ‘things’, so too are cinema employees, in order to successfully regulate admission and enforce censorship classifications of films. As patrons (primarily people aged between twelve and seventeen) continue to attempt to circumvent the cinema’s surveillance systems, different techniques are employed to reduce their chance of successfully gaining unlawful admittance to a restricted film. A combination of small acts and incorporation of a variety of tools result in an increased efficiency in monitoring patron admission. As argued by Hochschild, “[Goffman] prevents us from dismissing the small as trivial by showing how small rules, transgressions, and punishments add up to form the longer strips of experience we call “work”” (1983, p.10).

Q: In your experience what techniques have people used to try and get in underage?

A: *Oh, everything really. I mean, there’s the old ‘parents thinking they can get them in’, there’s fake IDs, sneaking between movie theatres as I mentioned before. There’s trying, in some cases, to buy tickets off staff members who are their friends, thinking that they may be able to get through. But we try and teach all our staff from day one, that’s not going to happen. The only [way that could succeed] is if the person at the control point was to let somebody through, knowingly, because they were their mate, and that has happened here once. Then the person at control, they get caught, because at the end of the day it’s about catching them. I mean, right, we’re here to enforce a law, but we’re also here to police our staff, to make sure they enforce it, so we’ve caught one staff member who let in somebody, and basically, he went straight to “this is your final warning”. There was no sort of 1 2 3 steps because basically it was gross misconduct of his position. It wasn’t really something I wanted to fire the guy over, but it was close, but because it was gross misconduct I just took him straight to a warning procedure where if he did anything else again like that he would be fired instantly. And he knew it. And then I also laid that rule down for my staff at a staff meeting, and let them all know where it was at.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

Staff must process ticket sales efficiently, ensure theatres are clean to receive an audience, and check that films are running to schedule. However, underlying this functional aspect of the job is the necessity to be aware of other happenings around the complex - “The dealer’s technical skills lie in the rapid and correct handling of



cards, the wheel, chips and money under pressure and on display...However then intensity of work involves more than just pace. It involves extensive surveillance in order to avoid errors and cheating by players and employees” (Austrin & West, 2005, p.314).

*Basically while a film's being screened, you've got your restricted movies that are like the Deuce Bigalow and the Unleashed, we've got what the restriction is, the year that that pertains to, so for example, if a 16 year old comes in, and they look..., they're borderline, you know, you're talking about a borderline looking, possibly 16 possibly 15. One of the most common things to do is say "what year were you born in?" and "what was your date of birth?" because everybody's got that number imprinted in their brain, and it's very hard to suddenly switch off and instead of saying 1989, you might have to say 1986, or whatever it might be. A lot of people do get caught out, straight away, they go, "um ah um", you can almost see them calculating, trying to work out how, "if I take this year and minus 16 where am I at?" What we generally do is when we get a borderline person, who it's really, very difficult to tell, that's when a staff member may call a duty manager in, and the duty manager will make the call. Most of the time, the duty manager will make the call that they are not [old enough], but I mean, I've been down there before, to make a call, and I clearly can see that that person is like 17, 18. They may look 16 and, again, some of the staff do get a bit over zealous on it, and get a bit pedantic about it, so sometimes, it is good to have a fresh pair of eyes actually assessing the situation.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

When patrons are buying tickets for restricted films, staff try to ensure that all tickets being purchased are for appropriately aged people. This may mean asking patrons to point out in the foyer who else is going to the movie with them, and asking those people to produce age



identification. It is in these cases where it is particularly important that the staff member on Floor check ages of people entering the cinema, as it is possible that the tickets may have been passed on to younger patrons. On Floor, staff direct patrons to the theatre corresponding to their ticket, but will track people's movement between the Control Point and the theatre doors as much as possible. This work of surveillance is necessary but difficult due to the disproportion of numbers of staff versus patrons.

Q: Are there security cameras around the public area?

A: *Yes, there's about 20 odd cameras in the building, and they cover the building, the entrances, the hallways, they cover down into the points of sale and box office, they pretty much cover everything.*

Q: Are they generally watched, like if someone was sneaking between theatres, is someone watching?

A: *We don't monitor them 24 hours a day, we don't sit there and monitor them. If there is a problem, or if there is a belief that there might have been something, then we can wind it back, review the actual footage. Because it's a digital system, it is still recording even while we're reviewing, so we can just...*

Q: So if you suspect something's gone on, you can check that.

*- Interview with Cinema Complex Manager, 07/10/2005.*



The presence of surveillance cameras is combined with staff knowledge of the cinema and typical movements of patrons around it to ensure that rules of entry are adhered to. For example, in particularly long films, staff will expect to see movement between the theatres and the toilets approximately half-way to three-quarters of the way through the session. Patrons may also leave at any time, for whatever reason, or may leave momentarily to purchase more refreshments. Austrin and West describe the use of visible action in order to effectively practice surveillance over an area and its occupants:

“...one critical element of surveillance is visual display. In table gaming this is directly evident, both in respect of the ‘choreography’ (Earley, 2001) of highly scripted *public* moves (Scholnick, 1978) and in the use of cameras.”

(Austrin & West, 2005, pp.318-319).

At cinema complexes, Floor staff and duty managers will randomly patrol the corridors throughout the shift, and the Floor attendant is required to complete a secondary torch-check approximately half-way through the film, to ensure that patrons are comfortable and behaving appropriately (that is, not disturbing others, and seated in the correct theatres).



*Finally, the lights are turned off, and the film starts. As the opening credits appear on screen, a cinema attendant enters the theatre with a torch, and patrols down the aisle to the front of the theatre. She looks at the screen, checks that the fire exit door is secure and has not been tampered with, scans the theatre to make sure all patrons are behaving, and leaves. Halfway through the movie, the cinema attendant reappears and the process is repeated.*

*- Field Research at Smaller Cinema Complex, 07/10/2005.*



Other key tools utilised by cinema staff are hand-held radios, or ‘walkie-talkies’. These are positioned at key points with staff throughout the complex, generally held by the projectionist, the supervisor, the person on Floor and the Box Office. These allow staff to quickly communicate information across the complex, such as ticket sales for a particular session so that the Floor person can correlate the numbers of tickets sold with the people in the theatre.

Due to the popularity of films and varying sizes of the cinemas, films will often shift theatres throughout the course of a day to accommodate anticipated audiences.

**Q:** So you don’t show all the restricted films in a particular theatre, they shift around too?

**A:** *We do if we can make it happen. For example, I think we’re showing about 13 to 14 films right now, and we’ve got 8 theatres. So*

*sometimes we're showing [the film] in the morning, then we show it in the afternoon, once in the afternoon, then we might show it once in the evening. It might shift theatres, and films do shift theatres, depending on how popular they are. For example, an R18 film or an R16 film might be showing in cinema 2, which is one of the smallest ones. But because that's going to be a much more adult related product, it's going to have more adults going to it at night time, and so it shifts to a larger theatre to actually accommodate more seats for those adults. It actually moves theatres. And there has been the odd occasion, and it's extremely rare, where cinemas have, when [the projectionists] have flipped the prints around between theatres, they've actually mucked it up and threaded the wrong film on it. Again it's very, very rare that this happens, but it does happen, and they might have actually threaded an R18 film or R16 film into one that actually should have been like, G rated or M rated, and the next thing you know, the first 30 seconds, everybody's sitting there going, "this is a bit weird, this doesn't look like the film I came for". People generally let you know that. Again, it's very rare, it does happen but it's very rare.*

*– Interview with Cinema Complex Manager, 07/10/2005.*

At most cinemas, tickets must be sold with some degree of face-to-face interaction between staff and patrons. While phone bookings, and in some cases internet and fax bookings are now available to patrons, tickets must still be collected from the Box Office. This allows staff to ensure that these sales are being made following censorship guidelines.

**Q:** When restricted films are coming up, if you know something is coming up that might pose problems, are there any special preparations made?

**A:** *Basically, what we do is when we come up with a movie, we know its going to be R-rated, the first thing we do is as soon as we get a rating for a film we try and let the staff know what that's going to be. "That film is going to be R-rated". Because the staff are always saying, "hey, what's this film? When is that film coming out?" Once it's R-rated, for example, somebody might say, "I want to do a cinema hire for Deuce Bigalow", and again that's a common misconception. They think that if they hire the cinema that they can have whoever they want in there, because they're paying for that theatre. The rating law stills applies, and we have to say to them, "look, that [hire] is fine, but you won't be allowed to have anybody in who's under 16". Again, we try to get as much information out there as possible, for example it's in the paper, it tells you what the*

*restriction is and why it's restricted – it's R16, contains, violence, offensive language, sexual scenes, whatever it might be.*  
*– Interview with Cinema Complex Manager, 07/10/2005.*

As stated above, cinema management tries to minimise the potential for confrontations with patrons over restricted films by making information regarding classifications on films available and visible. Each day the classifications of films are printed next to the film titles in the paper. The cinema receives a copy of the local newspaper and from this the movie sessions are photocopied and placed at the Box Office for the use of staff. Aside from confirming that the session times have correctly been printed, this information assists staff in the enforcement of censorship classifications. In situations where patrons argue that the classifications were not in the paper and so they were not aware of the need to bring identification - therefore, they should be let in - staff can back up their position by producing the copy of the paper for the patron.

**Q:** I notice that you have [the classification information] on your website. Is it on the phone information line as well?

**A:** *It is, and again, on the movie information line, we generally, when we get to those R-rated films, the movie information sort of goes the name of the film, the rating of the film, usually, so it might go something like "Deuce Bigalow 2, this film is rated R16, please note identification may be requested, this is an R16 film". And then it'll talk about the times. So that's the first thing the person hears.*  
*– Interview with Cinema Complex Manager, 07/10/2005.*



It is a requirement of the censorship legislation that classification ratings are correctly displayed in public view for all films showing (Films, Videos and Publications Classification Act, 1993, Part 8 s120). Normally censorship signage is made available to the cinema close to the release date of a film, however if this is not received, it is

the job of a delegated staff member to follow this up and put together appropriate signage. There is no restriction on the placement of film posters around the cinema complex, as while posters can be restricted, few are and so it is at the discretion of the individual cinema as to where specific film posters are displayed.

Q: Censorship certificates for the films, they're displayed?

A: *Yes, displayed at the entrance downstairs. Next, right in fact, to the censorship display are the rules and regulations...Not that people actually read them. Some people do. Very few people actually read them. Again, I think even when people do read them, they don't necessarily understand what they mean, and even if at the point of sale when we're explaining to them, we get out the rules and we show the person the rules, they are often annoyed that we would even enforce them.*

Q: I saw that the classifications of the films are on the text board, how about the notes for the films, as in why it's been rated?

A: *That's actually in part of that display, it usually just has the name of the film, the running time, the rating, the rating sticker and notes as to what the film contains, all on that one thing. That has to be displayed. It also has to be displayed on the posters and other advertising..*

*- Interview with Cinema Complex Manager, 07/10/2005.*

While systems are in place and procedures are designed to assist in policing the movement of patrons and regulating access to the theatres, not all outcomes can be anticipated, thus a degree of flexibility and innovation is required to avoid failures and overcome obstacles that may unexpectedly arise, as suggested by Wilson:

When goals are vague, circumstances become important. Chief among those circumstances are the situations with which operators must cope on a daily basis...When you report for work the behaviour of your clients and the technology available to you will powerfully shape what you do, no matter what the stated goals of the organisation may be.

(1989, pp.36-37).

Applying Wilson's argument to censorship enforcement at the cinema, variable day-to-day circumstances and situations require staff to incorporate (and apply with varying levels of effort and effectiveness) numerous coping strategies in order to adequately monitor patrons' movements and fulfil their employer's expectations.

On occasions when a cinema attendant has been unable to check the tickets of all patrons entering a particular theatre, staff may have to conduct a head count and check with the Box Office the number of tickets sold. However, if there are more people in the cinema than the computer says there ought to be, the cinema attendant at the theatre is now faced with the problem of trying to identify who should not be in there. When the theatre in question is playing an age-restricted film the problem of having extra people in the theatre is increased by the concern that under-age patrons may have managed to get past the systems of control and gain access to the theatre. Sometimes it happens that at the start of the film, the appropriate numbers of people are in the theatre, and all systems have worked adequately to achieve this. Upon a mid-session check, however, it is noticed by the cinema-attendant that there are people in the theatre who were not there at the start. In this event their options are: a) to approach the people and request to see their tickets b) confer with the Box Office to make sure that these people did not just buy their tickets late and consequently have to acknowledge that they have failed in their role as a monitor of the theatre, or c) do nothing and save themselves potential disciplinary action from cinema management, such as removal of staff privileges or dismissal from employment. This choice highlights the subjective nature of censorship enforcement, in that at times it comes down to the actions of individuals, and the degree to which they are committed to the goals of the company, or their own opinions on censorship, will shape the level to which they actively engage in processes of surveillance and enforcement of censorship classifications.

Q: I guess there's not much you can really do to, once people get past that control point, to stop them going... to make sure they go to the correct theatre...

A: *That's again one of the things... that's Control Point, when we're ripping tickets we're telling them, because we allocate every session and every seat, and we have done since day one, at the Control Point the general thing is you go, "ok, you're in Cinema [theatre] One, you're in this, you're in that". Now when you're in really high volume, four, five hundred people standing in a queue, all ready to go into cinema one, that's when it is actually very difficult for us to monitor – 'Is the person who just had the ticket for Cinema One, you know, happy fluffy movie, did they go in Cinema One? Or did they go into Cinema Two where we're showing some R18 stuff?' Very*

*hard to monitor, but you know, when it's average, it's a lot easier, to monitor. But, there is a point where it does become almost impossible to actually monitor every single person's movements, and that's where you are going to get the odd one or two people who do sneaky stuff. And that's kind of where, it gets to the point where you would have an argument, if, for example, we were raided and they went in to an R18 cinema and they checked every single person as they walked out for example, every single person's ID was checked, and they found somebody in there who was underage. The first thing they'd probably say to that person is show us your ticket. Because if that person's got the ticket to the R18 movie, then we're sort of, that's when we're really in between a rock and a hard place. If that ticket says Cinema One, to Wallace and Gromit, then we've got an argument to say, "well hey, we sold them a ticket to a movie and they snuck in", and we weren't able to police that, but you know, given the fact that this is the business and, there's a lot going on...*

**Q:** You can't have somebody on the door all the time...

**A:** *There's not somebody on the door, no, and I guess, in a perfect world, there would be somebody allocated to every door monitoring the traffic flow. But we can't afford to have that many people working, just standing at the doors, for 3 hours or whatever, while a movie goes on and they're just standing at the door doing nothing.*

*- Interview with Cinema Complex Manager, 7/10/2005.*

The above example illustrates how the systems of censorship legislation influence the cinema to operate in a prescribed manner in terms of censorship enforcement through possibilities of penalties incurred for failure to do so. However, the example also illustrates the way in which the pressures/interests of business are negotiated with upholding the legislation.

## 4.7 Inspection

It is the assumption of cinema managers that from time to time people working for the Censorship Compliance Unit, operating under the jurisdiction of the Department of Internal Affairs come to inspect the cinema, to ensure all signage is correctly displayed and that proof-of-age identification is being asked for and produced before people gain entry to restricted films. It is this belief that is a primary reason for cinema management taking such rigorous steps to ensure their staff are enforcing the classifications.



Q: As far as the inspector of publications visiting the cinema, do they come here often? Are you aware of their visits?

A: *They don't make us aware. I mean, nobody's ever rung me up and said, "look, I'm coming down there to do an inspection". My feeling is, that they probably don't do as many as they probably should. But at the same time, I'm sure there's reasons for that, they've probably got a lot of things on their plate as it is. But I'd like to think they actually did come down here quite often, and it'd be nice if they did come down, they would report back to you saying "hey, went in the other day and you guys are doing a good job", but you never hear it.*  
*– Interview with Cinema Complex Manager, 07/10/2005.*

In fact, due to the changing nature of the work of the Censorship Compliance Unit, namely the global expansion of the Internet in the early 1990's and the increase of child pornography circulation this has resulted in, the CCU rarely makes routine visits to cinemas. The role of the Censorship Compliance Unit in censorship enforcement is explored in detail in the fifth chapter of this thesis; however, they do still visit cinemas on occasions when a member of the public makes a complaint to the Unit regarding a particular incident at a cinema.

Q: When you do go to businesses to visit, do you go overtly and say "I'm here to inspect things"?

A: *One of the requirements of the Act [Films, Videos and Publications Classification Act 1993] is that we identify ourselves when we go to a place. We have a warrant card, it looks very impressive, and we identify ourselves and say "we're here to do a routine inspection" or "we're here because of a complaint. The complaint was about the fact that you had this film and sold a ticket for it to this person last Tuesday. We'd like to know who was on at the time, who were the staff on, we want to talk to them. We'd like to know this. Have you got the film" and we'll investigate it from there. Or if it's just a routine inspection, "we'll say, this is a routine inspection"...*  
*- Interview with Censorship Compliance Unit, 14/10/2005.*

The other misapprehension under which many cinema staff operate is the impression that CCU will covertly monitor their efforts at censorship enforcement and may try to catch cinemas out. However, as the following quote illustrates, this is not the case.

Q: Do you ever do ‘Target’-type undercover stings, like send a 15 year old to R16 movies?

A: *No, no. And wouldn’t. Not the kind of activity we would see as either appropriate for the department... Given the type of work that we’re focused on, um, it really wouldn’t be what we would think was a good use of resources. Also not very good for public image, and you know, we need to be aware as anybody that sure, the law is the law, but voluntary compliance is a large part of what we rely on. And, you know, actions such as sending 13 year olds in to try and get into R16 films, seeing if they can get in, and if they get in then going and hammering the cinema operator, I don’t think that would really engender faith in the department or good will, or encourage anyone to comply voluntarily with the legislation.*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

Nevertheless, this sort of approach by the censorship authorities is expected by cinema managers and they attempt to be prepared not only for an unexpected inspection but to defend any short-comings that might be highlighted by such a visit.

*One of the managers who’s on today had a bit of a run in with a patron, customer about 20-30 minutes before you got here. Because two people didn’t look old enough to her, they were very borderline, and she just said, “well they’ll need id”, and the guy turned around and said “you’re losing business”. Well, that’s sort of a moot point, because if she lets them in, and he happens to be one of those undercover blokes, I mean, then we lose \$60 or whatever it might be.*

Q: It’s not worth the risk?

A: *Oh of course not. You know, it’s like saying to a bar, a drunk walks in and says “here’s 5 bucks for a beer” and you say “no”, you’re losing \$5 business, well, how much business are they going to lose if they serve you and they get caught out?*

*- Interview with Cinema Complex Manager, 07/10/2005.*

The current classifications used by the Office of Film and Literature Classification have been in use since 1993. However, despite their longevity, many people are not familiar with the implications of a restricted rating on a film, though people who regularly attend the cinema generally seem to better understand the requirements attached to cinema admission.

Q: Have you found any trends over the years that people are gradually becoming better at bringing ID or understanding things?

A: *When we opened, we were very strict. We've actually lessened the strictness a little bit now, because we just had so many confrontations going on with people. And so that's why we brought in a bit more of a flexibility for a manager to make a final call, and sometimes the manager says 'yes', and sometimes the manager says 'no'. But that flexibility has brought down the level of complaints we've had. Because we have now been here for two years, most of the people who come to this cinema complex understand that we are booking them a seat, that is the seat that they are sitting in, they know what price they're paying, and they know how strict we are with the thing. We get some calls from parents saying, "I really like sending my kid there because I know you're not going to let him in" [to a restricted film], or "I like coming to your theatre because I know the element that's there is going to be, you know, good, not a rough element, in other words, I feel safe and you enforce rules". So we do get a few people actually saying thank you for that, which is good too.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

This positive reaction to successful enforcement of classifications by the cinema creates a reputation that, once established, management are keen to protect in order to attract return attendance from those patrons. An image of efficiency and control combined with an enjoyable entertainment experience is the primary product the cinema aims to sell to people. In her discussion of the work of flight attendants, Hochschild outlines a similar approach by airlines:

In processing people, the product is a state of mind. Like firms in other industries, airline companies are ranked according to the quality of service their personnel has to offer...it is cited in management memoranda and passed down to those who train and supervise flight attendants. Because it influences consumers, airline companies use it in setting their criteria for successful job performance.

(1983, p.6)

Q: Do you think there's anything in particular that is done really well here to ensure that only people of age get access to films?

A: *Well, again, I think we are quite tough and my managers pride themselves a bit on the fact that they are quite tough. Sometimes they're a little bit overzealous, and that can cause again problems, different problems, but, I would much rather they took it seriously*

*and they were, you know, stepping up and actually saying something, rather than being meek and mild and not doing anything. You open yourself up to far too many things, but you've got to be tough because once you start slacking off, the behaviour in the cinemas gets out of control. We have complaints about people saying, "oh, these kids in the movies, they bugged us", but I mean, they're nothing compared to what I've seen - some cinemas where the people have just been actually out of control.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

As discussed previously, different types of films will create different sorts of challenges to censorship enforcement activity, depending largely on the type of audience attracted by the film itself.

**Q:** Have there been any films, generally in the last year, that have been really problematic, or does every film have its own challenges?

**A:** *Well, not so much in the last year. But before that, '8 Mile' was a good example of a film that was classified. Film companies send their films to the classifications board, and the censor, and they censor the films, but a film company can then send it back to the censor and say "I'd like you to look at it again and re-classify it if you can". So '8 Mile' went away as an R16, then came back as an R13. And the worst one, I tell you the worst one we've actually ever had to deal with was the 'Passion of the Christ', because so many religious people felt it was their children's right to see this portrayal of Jesus. Now, you're getting into some really murky water there, because you're talking about people's religions, but we had to say to them, "No, you can't take your kids in". And boy, this was just out of control, we had people screaming at managers, going "you're the devil", and things like that - "the devil's in you, you won't let my child see Jesus", and all that. We were just going, "this is insane". Because they were so passionate about their religion, they couldn't understand why the death of Jesus and everything else should even have a classification on it, because it's in the Bible, and they learn it at [church]...*

**Q:** And is there anything that you know of, any upcoming releases that might be... or cause...

**A:** *Probably things like the Transporter 2. Transporter was quite a graphic film... but there's a movie called 'V for Vendetta' which will probably come out in March... what we else have we got... There's a couple of things, 'Broke Back Mountain', which is about two homosexual cowboys, I expect that might actually get classified, don't know yet but we'll see. 'Memoirs of a Geisha', that may well get classified. There's a movie called 'Kiss Kiss Bang Bang', which starts on November 3<sup>rd</sup>, that may be classified. So, probably one a*

*month, or one every two months, but you just don't know. I guess then that other thing is that in America, being more of a Bible-belt, conservative country, they often rate films a lot higher than we would rate them. But reciprocally, they've rated some films very much lower than we would rate them, so you can't look at America and say "well that's going to be rated the same way here" because you just don't know. Even Australia has a different rating system, and again, it would be really good if they had just a consistency in ratings, if you could actually know that a film that was rated R15 or R16 or whatever is was in Australia was going to be the same here. But there isn't that consistency, so again, you've got kids coming back from Australia saying "I saw this", and kids here saying, "well I couldn't even get into it". So that fuels the fire of wanting to get into those r-rated films. And I guess at the end of the day it's like a rite of passage of teenagers to sneak into films, because they seem to think they're missing out on something by not seeing that film.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

## 4.8 Conclusion

*No system's 100%. We know that kids get in here, and at other sites through either false ID, having a ticket to one film going in the doors to one film, then while everybody's backs turned maybe sneaking across to the other theatre. If we catch them, we catch them, but at the end of the day, we make it our priority to try and avoid that at the point of sale. The box office point of sale and then again at the candy bar, again at the control point.*

*- Interview with Cinema Complex Manager, 07/10/2005.*

The cinema is obligated by legislation to fulfil its duties in enforcing the classifications as laid down by the Office of Film and Literature Classification and attempts to do so using standardised documents such as censorship certificates and signage outlining the implications of the classifications. However, it is clear from the above that the systems put in place to administer these classifications are applied and enforced to varying degrees of effort and effectiveness. Nonetheless, cinemas work to minimise awareness of their system's weaknesses, both to avoid their exploitation by those who would abuse them, and to avoid negative repercussions from the Censorship Compliance Unit. This careful negotiation of problem and control is

described by Orr in his analysis of the relationship between the technician, the machine and the corporation, where he considers -

...the technicians perception that they must project an image of competent practice and the fact that the corporation requires use of the documentation. The former dictates that they systematically try all possible approaches to a recalcitrant problem, and the latter grants a form of immunity to blame should the problem prove intractable. That is, in providing directive documentation, the corporation is assuming responsibility for solving the machine's problems, and in the eyes of the corporation, technicians are only responsible for the failure to fix a machine if they have not used the documentation. However, while the technicians are quite willing to let the corporation assume any blame, their own image of themselves requires that they solve the problems if at all possible...The technicians are quite philosophical about the short-comings of the documentation, saying that the machine is far too complex to anticipate correctly all of its possible failures.

(1996, p.111)

Despite the inevitable holes in the systems of control and surveillance employed by a cinema to enforce the classifications on films as decreed by the Chief Censor, cinema operators utilise all components of the cinema complex to minimise these gaps and work to maintain a comprehensive system of monitoring and regulating of patrons to minimise the potential for underage patrons to gain admission to restricted films. While the cinema is a relatively stable and centralised site of censorship classification enforcement, other sites such as video stores, libraries and the Internet are not so. Here, policing the classifications becomes increasingly problematic, leading to delegates of enforcement agencies adopting different techniques and tools, as is discussed in the following chapters.

## **5. Mobile Objects: Books, Videos and Video Games**

### **5.1 Introduction**

Surveillance systems adapt to different situations, and vary in response to the object that is being surveyed. The techniques used to police and enforce censorship classifications vary with different types of publications and media, due to the site of access and the nature of the medium being regulated. While cinematic film is constricted to exhibition in the public domain of the cinema, publications that are more mobile create new challenges for those charged with the enforcement of censorship classifications due to the change in the “locus of consumption” (Watson & Shuker, 1998, p.27) between public and private spheres. New sorts of objects are introduced into the network of censorship enforcement, and regulation of their flow is restricted to the realm of self-management of the site of retail or hire. This chapter will explore: legal attempts at classification of media; bodies charged with enforcing the legal classifications; and the limited control of the techniques and tools used at bookstores, video hire outlets and libraries to self manage the monitoring of the distribution and circulation of classified objects and will discuss the limited reach of censorship into the privacy of the home.

## 5.2 Mobile Objects

Censorship enforcement systems face new challenges when dealing with the policing of objects that do not rely on centralised exhibition sites and styles in the way that film does. Objects such as books (comics, magazines, and so on) and videos (and video games) are accessed at multiple sites by audiences, either for purchase or hire, and are mobile in the sense of their movement both within the store and from this public site to unregulated private use. Generally speaking, due to their tangible existence (as opposed to the physically separated relationship between the cinematic film and the viewer) they are able to be physically moved with ease by customers and staff – again both within the store and out through its doors – creating further challenges to effective censorship enforcement that are unique to these types of objects. Furthermore, people's bodies themselves become the ultimate mobile object to be policed, one which must be surveyed and monitored both in its interaction with restricted publications and in its individual behaviours (physical and verbal offensiveness, and conscious rejection and circumvention of practiced censorship enforcement). It is these bodies that activate and facilitate the flow of objects between various sites of consumption.

Increasingly, restricted publications can be consumed at the site of retail, with stores allowing patrons to 'try before they buy' or browse at leisure the materials on offer, with the exclusion of sealed publications and videos/DVD's (generally due to a lack of facilities). Video stores have television screens playing a staff selected title, as do bookstores where videos and DVD's are sold, and some bookstores encourage patrons to sit in the store and read books from the shelves, without necessarily purchasing them – armchairs are placed throughout the store, and some are introducing cafes to encourage shoppers to stay in the store longer. Libraries similarly encourage on-site consumption through provision of comfortable reading areas, cafes and video consoles for game playing.

While videos and video games generally need to be hired and taken home before they can be accessed, written materials such as books, comics and magazines can be

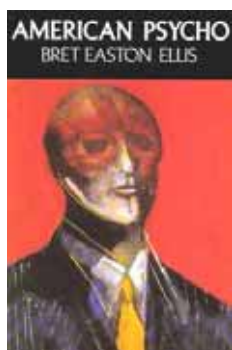


flicked through or read at length in the surroundings of the bookstore or library. However, technologies such as portable gaming devices, cell phones with media capabilities, and storage devices such as USB pen-drives increase the potential mobility of electronic publications, making the flow of restricted or objectionable materials increasingly difficult to track:

**Q:** I assume that the changes in technology, with new things and cell phones upgrading, would create new challenges?

**A:** *Yes, probably in the last couple of years, with things like ipods that you can store more than just music files on - on the ipod you call it an MP3 file. With the X-Box, the PS2 portable, they're capable of playing movie files as well. So anywhere that you can store or put movie files is now potentially an area where you could store objectionable material, so we keep an eye out for those sorts of things. You know how they had the DVD recorders, or the TV DVD recorders, they were based on a hard drive. That hard drive could potentially store anything. It could be a hard drive you normally keep in your computer and you have an area reserved on that your DVD player 'talks' to. Changeable drives, removable drives... I guess they've always been aware that people can remove drives, but nowadays as you get USB drives, the only evidence that they've been there is the USB cable. And it could be any device - the person could argue "oh yeah, that's my USB camera", or "sometimes I use a USB keyboard, that's why that's there". Unless you find the USB drive, you don't know until you examine the computer that there are things written off to the 'X' drive or something. And you see the person has only got three drives there, indicating, that other one has got to be hidden somewhere else.*

*- Interview with Censorship Compliance Unit, 14/10/2005.*



As the objects which are being tracked become tangible and manageable in size, their mobility is increased and so also is their potential to be manipulated and accessed covertly, for example by swapping DVD's inside cases, concealing a magazine inside a coat sleeve. Amongst other relevant information, an online library catalogue includes the dimensions of the restricted book "American Psycho" – it is 399 pages, and 20 centimetres in size.<sup>5</sup>

<sup>5</sup> This chapter contains both photographs that I have taken as well as images that have been downloaded from the Internet. Photographs that appear in this chapter serve as illustrations to elaborate

DVD cases are generally 19 x 13.5 x 1.5 centimetres in size; videos are 19.4 x 10.5 x 1.5 centimetres, while video games vary depending on the console for which they are intended. Increasingly, mobile media platforms are shrinking in size yet growing in capability, with the Apple iPod nano, released in 2005, capable of holding 4 gigabytes of media including songs, photos, podcasts standing at 8.89 x 4.064 x 0.6858 centimetres and 42.5 grams

(<http://www.apple.com/ipodnano/>, accessed 22/03/06)

and the Sony PSP:



The Portable Entertainment Revolution has arrived.

The PSP™ (PlayStation®Portable) has a slim 6.7" x 2.9" [17.018 x 7.366 cm] frame that packs a powerful multimedia punch, enabling you to enjoy your favourite games, music, videos and photos instantly, anywhere. Factor in the PSP system's brilliant high-resolution screen and cutting-edge wireless connectivity and Internet Browser – and you may just have a revolution in your hands.

(<http://www.us.playstation.com/psp.aspx?id=abouthighlight>, accessed 22/03/06).

The significance of these technological developments in relation to censorship enforcement is the increased ability for people to access restricted materials without detection by censorship enforcers and the ease with which users can disguise or conceal both the object and the media they contain, in addition to the ability of some objects to exchange and transfer media wirelessly.

## 5.3 Legislation

In 1866 Parliament passed the Vagrant Act as a result of the advocating by provincial councils to introduce measures to “restrict the circulation of ‘indecent’ and ‘obscene’ material”(Christoffel, 1989, p.3). The Vagrant Act made criminal “any person wilfully exposing to view in any street road thoroughfare highway or public

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on the text which they accompany. References for the images collected from other sources can be found in Appendix 2.

place...any obscene book print picture drawing or representation”, a provision which was carried into the Police Offences Act 1884 (p.3). As the legislation did not define the terms ‘obscene’ and ‘indecent’, this was left to the discretion of customs officials acting under existing customs regulations (p.3).

This attention towards censorship developed in a time when technological and social developments were creating a greater mobility for young people through innovations such as the bicycle, which allowed them to travel and meet with each other un-chaperoned (p.4). This newfound freedom coincided with an influx of written material aimed at a wider readership on to the market. Since the introduction, largely through importation from the United States, of publications such as paperback novels and comics in the 1930’s, legislation has been drafted and re-drafted in response to the changing landscape of publications and resulting censorship requirements. The extensive legislative measures have involved the Minister of Internal Affairs (1934), government committees (1952), Customs committees (1956), the Crimes Act (1961), the Indecent Publications Act and Tribunal (1963, 1972), Cinematograph Films Act (1976), Race Relations Act (1977), Contraception Sterilisation and Abortion Act (1977), Video Recordings Act and Video Recordings Authority (1987), and the Ministerial Committee of Inquiry into Pornography (1987) (Christoffel, 1989, pp.41-43). The continuing aim of the legislation was to effectively control and police access to these publications in an era of concern over the (potentially) negative affects upon youth that would result from un-regulated interaction with magazines, comics and so on. The affordability and availability of these publications led to a high demand, especially amongst younger consumers, and concern over the impact of these publications on the ‘minds and morals’ of the impressionable youth was so high that in 1954 “hastily-drafted anti-comics legislation” was rushed through parliament in a bid to stem the rise of “juvenile delinquency” (p.2).

The legislation was rewritten in 1993 with the introduction of the Films, Videos and Publications Act. This changed, among other things, the requirements in labelling of publications. Certain types of content (such as that involving urination and excrement) that had been allowed before were now automatically classified as objectionable,

requiring many video stores to remove such products from their shelves, or alternatively source 'cut' versions of the film with the objectionable material removed. In the period following the change in legislation, the Censorship Compliance Unit worked to assist retailers in this transition, and issued warnings in cases where changes in labelling had not been carried through.

*I mean I've been in the unit for 9 years and going back to when I first started, it was all about going out and doing labelling inspections, making sure that videos had the right labels and they weren't the wrong kind, as there had been a change in the legislation from the 1987 Act, the Video Recordings Act, to what was then the new legislation, 1993. The new legislation came and there were some things that had not previously been banned but now were, mostly things to do with urination, in association with sexual conduct, which previously had been not quite ok, but not really illegal, and were then made very clearly illegal. And so a lot of video tapes had to be reclassified. For the first two or three years, it was just a matter of going around and saying "well that's been reclassified now, you can't have that" and taking video tapes off people and off video stores, particularly people who weren't 'in the loop' in terms of the industry. There are people who are part of the Video Wholesalers Association, and they get lists of what's been banned or reclassified. People who weren't sort of in that and had stuff - often it'd be a diary that sort of doubled as a video store in Hokitika or something, somewhere that hardly got visited - and they wouldn't know anything about it. You'd go along there a couple of years after the change had been made and find that they had half a dozen tapes that they shouldn't have. You'd take the tapes off them and give them a warning and that was that. They weren't the kinds of people who were going to deliberately offend. That has almost never happened, where you get a video store or some kind of you know, bona fide outlet for material that has found to have been constantly offending. I've only prosecuted one Christchurch outlet in the last 8 years, for deliberately making available objectionable material and unlabelled material. They were actually bringing it in themselves, not bothering to get it classified or labelled and then just sticking it on the shelf, in some cases putting the sticker on it that said R18, it hadn't been issued by the Office of Film and Literature Classification, so it had no weight.*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

### 5.3.1 Enforcing the Legislation

When considering classification offences relating to restricted materials and labelling of such objects, it is rare for the CCU to prosecute those in breach of the law. This may be due to any combination of factors, but the primary reasons for this lack of action is the priority given to prosecuting traders of illegal and objectionable publications and the comparatively less significant impact of people providing access for underage persons to classified publications. This is not to say that this area is ignored by the Compliance Unit, or that it is not of concern to them. However, with a limited amount of resources available, a decision is made to target the areas where the CCU will have the greatest impact - in this case, the area of prosecuting (with the aim of deterring) the production and trading of illegal images primarily featuring child sexual abuse images. However, the practical reason behind the lack of prosecutions in relation to breaches of censorship classifications in private sectors is that the CCU, though they know it happens, are not alerted when breaches occur and are not capable of omnipresently overseeing all interaction with restricted publications. An officer from the CCU expands upon this situation:

*There was a comment not that long ago, a bit of discussion on a radio station I think, about the fact that parents were letting 12, 13, 14 year olds watch R18 material or R16 material, and the department wasn't doing anything about that. Well, that's true, we don't normally go into people's homes and find that they've been showing R16 films to their 12 or 13-year-old kids and then prosecute them for it. You can imagine the great unhappiness that that would cause, if we did. In theory we could take legal action, but the fact is, we don't hear about it because the kids who are being shown the films aren't going to complain, and the parents aren't going to do themselves in. It's done in the privacy of someone's own home and generally speaking, we don't know about it. The times we find out, when we'll get complaints about it, is when Johnny has been over to his friend Tommy's house, and Tommy has been watching an R16 video or something, or playing an R16 computer game. Then Johnny comes home and says that he was doing that, and mum and dad are horrified because he's only allowed to watch G rated films or something, and they complain to us. The result of those complaints is usually just contacting the parent involved and saying, "Look, this is a legal restriction, it's illegal for you to do that. Sure, it was in your own home. Yes, you know your children better than anybody else on*

*the planet. But this is the law, and that's what it says. Please don't do it again." Generally speaking, we get good responses to that sort of thing. Every now and then you get someone who rants and raves and says it's not the government's business to tell them what to do in their own home, they know their children better than anyone and they know that they're mature enough to handle it, etc, etc.*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

In practice, then, surveillance cannot be total. When enforcing the Films, Videos and Publications Classification Act 1993 in relation to appropriate labelling and supply of restricted publications, the CCU issues warnings to business proprietors who flout the law. However, at the same time they take into consideration circumstances such as degree of offending, and though ignorance is not regarded as an acceptable excuse, again it may be taken into consideration by the Unit before serious penalties are pursued. However, in some cases, prosecution may be pursued:

*With businesses and things, if they're found to be in breach of the law, a warning is generally the first step and then if they were repeat offending... Generally speaking, though, a place would be pretty unlikely to be prosecuted unless it was obvious they were doing it with knowledge of what they were doing, that what they were doing was wrong and against the law, they were doing something to avoid detection, and they were doing it on a large scale, or significant scale, or they were doing it repeatedly having been warned before perhaps. If you for instance, have a video store, and we come along one year and you've got a video that you're not supposed to have because it's been re-classified, you'd get a warning letter, but that's just so that over time, we would see in the database when we looked up your store, "ok, well they had a warning in 1994, and another warning in 1995, they were warned again in 1996, for objectionable material. 1997 nothing happened, 1998, 1999, they got another warning for something else. 2000 they got a warning for this". And we'd say, "ok, there's a bit of a pattern here", and assuming it was the same owners all the way through - and this is something you can't take for granted because a lot of these places change hands pretty regularly, or change managers reasonably regularly even though the owner stays the same, the owner may be in Nelson, or living on the West Coast or something and have nothing to do with the store, and it's all down to the manager - we need to make sure it's the same people that are involved and then perhaps if there was a pattern of them having had repeat warnings for the same kind of offending, then we could have a prosecution. Certainly one that I have prosecuted, he had three previous warnings for the same kind*

*of offending. He had an 'adult section' in which he had unlabelled, or incorrectly labelled videos and DVDs. He was warned about that, was warned a second time for the same thing and was told "next time you may face prosecution". The third time, [he] refused to supply documentation, and again had material that I believed he had [imported] himself. He claimed he bought it off someone else, and provided some invoices which, surprise, surprise, had false addresses. The addresses just didn't exist, and no doubt the people on them didn't exist, who he claimed to have bought them from. He never provided any other records from his accounts and that sort of tied it up, and so he was prosecuted.*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

As the officer explains, prosecution involves building a case over time:

*We can't fine, only the court can fine. So we would give someone a warning and say "don't do it again", or "this is an offence, you've committed this offence, this is the penalty, don't do it again". Or "if you're caught again, you might be prosecuted or there will be further action taken". They do it again, they perhaps get another one, depending on the search they might get another warning, and told "this is your last warning. Next time you'll be prosecuted." They do it again, and at that stage we will take them to court. Again, it would depend. If you get some guy who runs a fairly legitimate sort of business and he was caught out in 1993 because he had a tape that had been re-classified, he couldn't really have been expected to know about it, it was seized off him at the time, he got a warning letter at the time. Eight years later, something happens, and he's got a video game that should be rated R18, it's got no label on it, and he's hired it out to some kids or something. He gets a warning, and it's a different kind of thing almost. But still, you know, they've had a warning for it. And then say, this year, they get visited, and they've got something wrong, they've got a game that's not labelled, or a video that they've allowed to be hired out to someone who's excluded by the restriction on it, or they've got a video that's not labelled and it should be or a DVD that's not labelled or incorrectly labelled. We probably wouldn't prosecute them. The span of time that's over, and in themselves they're minor offences, and even over all, it's not the same deliberate kind of flouting of the law. We would be pretty unlikely to prosecute them. They would again just get a warning, but at some stage, you can only give so many final warnings before it becomes meaningless, and so at some stage we'd have to come in and say, "ok, look, you've had two final warnings now. We really can't keep doing this. You've got to pay more attention to what you're doing, and to help you do that we're going to prosecute you". And then we'd take them to court, and the*

*court might give them a thousand dollar fine, or a ten thousand dollar fine, or something like that, fines are now up to a couple of hundred thousand for dealing in objectionable material and up to about 50 thousand for restricted material.*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

### 5.3.2 Video Legislation

The video industry expanded during the 1980s, largely due to the influx of pornographic videos into the country. At this time, there emerged a need for control over this new media, partly because of dissatisfaction in the Chief Film Censor, in the Video Recordings Authority and the Video Recordings Act 1987. This Act required all videos for sale or hire to display a rating or classification label (Christoffel, 1989, p.38). Rating decisions were made by the Labelling Body, and were based on overseas ratings, classifications by the film censor, or by a viewing of the video itself (p.38). The reason for the need for legislation relating specifically to the medium of video was that the existing legislation did not apply to videos that would be shown in the private sector of the home, instead only applying to videos to be screened publicly (p.38). As suggested by Jancovich, et al, (2003) “video is an item of domestic technology” and so its regulation needed to take into consideration the conditions in which videos were consumed – that is, a private home in which people may feel their actions were individual and hidden, thus exempt from monitoring and censorship enforcement (p.185). Videos intended for private use were not subject to censorship in the same way that cinematic film was, and were instead classified as documents under the Indecent Publications Act (Christoffel, 1989, p.38). This proved unsatisfactory to those who felt the censorship system was not being consistently enforced across the different mediums. To try to ease the situation, the Video Association of New Zealand adopted the Australian classification rating stickers for videos in New Zealand (p.38). However, as the video industry continued to grow, the government called for clearer legislation related specifically to video, resulting in the introduction of the 1987 Act, later replaced by the Films, Videos and Publications Classification Act 1993.



### 5.3.3 Video Games

Concern is being voiced from some parents, teachers and censorship authorities over access of children to age restricted games, as video games become increasingly violent and sexualised, as well as realistic or life-like through technological developments. Under the existing legislation, the following definitions apply to video games:

“Video game” means any video recording that is designed wholly or principally as a game...

“Video recording” means any disc, magnetic tape, or solid state recording device containing information by the use of which one or more series of visual images may be produced electronically and shown as a moving picture...

(Films, Videos and Publications Classification Act 1993, Part 1, section 2).

Video games are classified as publications under Part 1s2 of the Films, Videos and Publications Classification Act, 1993, though are listed as being exempt from labelling requirements under Part 2s8 subsection 1(q). However, the content of video games has changed dramatically from what was available at the time of this legislation being drawn up, and video games can be required to be labelled and classified under the following provisions of the 1993 Act:

“(2) The Chief Censor may, at any time, require any person who proposes to exhibit to the public or supply to the public any film of a class mentioned in subsection (1), or who has exhibited to the public or supplied to the public any such film, to make an application under section 9 for the issue of a label in respect of that film.

(3) Nothing in subsection (1) exempts any film from the requirements of section 6 if –

- (a) the film is a restricted publication; or
- (b) the Chief Censor has required the film to be submitted to the labelling body under section (2).”

(Films, Videos and Publications Classification Act 1993).

In the Office of Film and Literature Classification's Annual Report in 2004, Chief Censor Bill Hastings commended the foresight of the government that authored the 1993 Act for creating censorship legislation with "the flexibility to accommodate changing social perceptions"<sup>6</sup>, without which the legislation would have become redundant in the face of dramatic changes in the objects being classified by the Office.

However, research commissioned by the Office and the Censorship Compliance Unit of the Department of Internal Affairs and conducted by UMR Research Limited in 2005 confirmed suspicions held by the agencies that under-age people were illegally gaining access to restricted computer games, through buying or renting the games themselves or a parent buying or renting the game for them (p.15). It also suggested that some people treat all video games as being suitable for children. The research concluded by highlighting the fact that supplying restricted games to under-age people was breaking the law, and presented the views of the agencies urging retailers and parents to be more vigilant in enforcing the censor's classifications in relation to video games:

Only about 10% of games are restricted and less than 1% of all games are classified R18. There are a wide variety of computer games available that are suitable for younger players. We encourage parents, shops and players to take note of classification labels and to abide by them. Censorship authorities cannot be everywhere and cannot monitor every sale or hire of a computer game. Instead, shops and, more importantly, parents, should ensure that age restricted games are not made available to underage gamers.

Giving persons under the age of 18 years access to restricted games is illegal. Our greatest concern is that giving children and teenagers access to R18 games increase the odds that some of these young people will grow up to become adults who will contribute to a society that normalises nonchalant and callous attitudes to violent behaviour, and that becomes more inured to or ignorant of the consequences of violence, consequences that no civil society should tolerate.

(p.17)

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<sup>6</sup> Hon D Graham, *Hansard*, second reading, 29 July 1993, cited in the Office of Film and Literature Classification Annual Report, 2004, p.6

In order to address the lack of specific reference to video games in the Films, Videos, Publications and Classifications Act 1993, the Office of Film and Literature Classification issued the following policy advice in 2001 to assist in the treatment of such artefacts:

#### Electronic Games

The terms “electronic games” and “computer games” (games) [do] not appear in the Films, Videos, and Publications Classification Act 1993 (the Act). Console games include PlayStation, PlayStation 2, Nintendo and Dreamcast. Computer games are those that are played on either a PC platform or an Apple MacIntosh platform.

Games fall under the definition of films and the Act requires that films intended for supply to the public must be labelled. However, section 8(1) (q) of the Act exempts games from labelling unless they are likely to be restricted. The onus is on the distributor, retailer or exhibitor to ensure compliance with the law and specifically to ensure that restricted level games are classified before being marketed. Accordingly games that are not exempt should first be submitted to the Film and Video Labelling Body Inc (the Labelling Body). The Labelling Body (details are provided below) acts as an agent for commercial suppliers who wish to submit material to the Office for classification.

While the Government has been considering amending the legislation to take account of technology such as this, the Office is required to operate under the existing law. In accordance with this and until the legislation is amended, the Office advises that a game will be classified on the basis that the Office needs to view enough of the game to be satisfied that the publication warrants a particular classification. A substantial portion of the game will be examined.

(<http://www.censorship.govt.nz/PDFWORD/PolicyAdviceNo1.pdf>, accessed 8/8/05)

A key point of the above directive is that by delegating to the distributors, retailers and exhibitors of the video game the responsibility of ensuring it is submitted to the appropriate classification bodies, the Office establishes a system of self-censorship within the industry.

Though the classifications issued by other countries are taken into account when a publication such as a book or a film is classified, all must receive a New Zealand

classification prior to public release. However, video games are the exception to this rule. They are the only sort of publication that is allowed to “carry a foreign rating label, or no label at all, if its content is not of a restricted nature” (OFLC Annual Report 2004, p.11). Section 8, Number 1 of the 1993 Act lists, among other things, video games as being exempt from labelling requirements. However, Number 3 of the same section decrees that the video game shall not be exempt if it is a restricted publication or the Chief Censor has directed that it must be submitted to the labelling body (Films, Videos and Publications Classification Act 1993, Part 2, section 8). The reason for the exemption of video game labelling was that when the Act was written in 1993, video games were considered to have much in common with other publications which were exempt (such as documentaries and educational films), a common characteristic being their limited appeal at the time (OFLC Annual Report 2004, p.11). However, the New Zealand OFLC is aware of the dramatic changes that have occurred in the world of video games since 1993, and have acknowledged the need to re-examine the way video games are classified in New Zealand. The CCU has continually confronted the video game industry in relation to their labelling (or lack thereof) of video games. A censorship officer explains the CCU’s preference for voluntary compliance:

*Games are problematic in general. There’s an exemption from labelling for games. However, the exemption has an exception. The exception is, if the game contains material that is likely to make it restricted, then the exemption doesn’t apply and it must be labelled. So let’s say you’ve got a video game that’s got some violence in it. If the violence is of a low-level nature, and it’s not likely that it’d be restricted, it’s exempt from labelling. But if the violence in it is likely to make it restricted then you should submit it, which costs you a lot of money, and means that you don’t get to supply that game to the public for months and months, and so there’s no incentive to do that. So people kind of, when I say people, it’s distributors, tended not to. We were getting games out there, and people were getting concerned because of the violent games out that weren’t being labelled. And we would send them in, they would say, “yes that’s got to be labelled”, but, the distributo, wouldn’t bother going around and sending out the labels to the heaps of the people we’d told them to. So we still had games out there that weren’t correctly labelled, and were available. Within the last couple of years we’ve sort of said, “righto guys, we’re going to treat you the same as everybody else now, if*

*you've got a game on which the distributor label is not correct, then you've committed an offence. You will be warned the first time, and after that you may be prosecuted". And so things have definitely improved, we're talking with the industry fairly regularly. The industry itself tends to sort of self-monitor and tow the line pretty well...*

**Q:** Is it the responsibility of the distributors to have the labels or the video stores themselves? I mean, would it probably be labelled by the time it got to the store?

**A:** *It should be. If you're running a retail outlet, and I as a distributor know that you're running a retail outlet and are going to make the product available to the public, then when I send it to you, I must make sure that it's correctly labelled. It's not good enough for me as a distributor to say, "it's not my job to label them, because I don't deal with the public". The Act specifically says that people who are supplying something they know to be supplied to the public must adhere to the requirements of the Act. So, if I'm importing a video game, and I know that you're distributing it to the public and I'm going to send it to you, then I have to make sure that it's classified and labelled. However, you also have a responsibility. As I say, for the distributors it's time and money, for the retailer it can mean that they get the warning letter or face prosecution. But that's pretty unlikely, that would be pretty heavy handed to prosecute the retailer who was really only passing on something that they'd been given, and we wouldn't normally do that. We try not to be overly bureaucratic about how we enforce the act, or be unduly harsh about it, because what we're trying to do is develop an environment where people feel that they can comply with the Act voluntarily. We would like to do that, we always offer an option of voluntary compliance, then if people are clearly doing something because they want to get away with it, and repeat offend, then we have to come out with a big stick and give them a whack*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

Video games which are rated M in Australia are not required to be submitted to the New Zealand Chief Censor, but an audit carried out in 2004 by Internal Affairs on games with an Australian M rating led to three games being submitted to the Chief Censor (OFLC Annual Report 2004, p.11). This in turn resulted in two restricted classifications being given to video games that would have otherwise gone on New Zealand shelves still carrying an M rating, and thus being available to purchasers of any age. The discrepancy in the ratings between New Zealand and Australia is attributed by the New Zealand Chief Censor to a fault in the Australian classification

law which only gives the Australian censors the options of rating a video game MA15+ (recommended for Mature Audiences aged 15 and over) or banning it altogether (p.11). Pressure is placed on the censors to keep the game available, resulting in a MA15+ restriction given to games which would under the New Zealand system receive a restricted rating meaning they are not to be played by people under the given age (generally restrictions are based on ages 13, 16 and 18). The Censorship Compliance Unit is aware of the concern over the use of Australian ratings on games in New Zealand stores, and encourages retailers to be proactive in ensuring the product they are selling meets the New Zealand labelling requirements of the Office of Film and Literature Classification.

*The Australian ratings are often taken as an indicator. For instance, if it's got an MA Australian label, but doesn't have a New Zealand classification on it, you should be suspicious about it; a lot of this is just a matter of familiarity and education. When we go around the video stores, we'll often say to them, "if you get a game, and it has got an Australian MA on it, MA15 or MA restricted, and you don't see a New Zealand label on it, you should contact your supplier and say "why isn't this labelled? It looks like it ought to be".*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

The composition of the video game audience has changed along with the technology over the years. While children are playing the games, there is an increasing level of popularity of games amongst older players. It is at these adult players that games such as *Grand Theft Auto 4: San Andreas*, *Manhunt* and *Doom* are targeted and marketed (though they are not the only types of players engaging in these games). It is also these players who often argue against the banning of video games, suggesting that as adults they should be allowed to decide what video games to play, while at the same time supporting the application of age restrictions. These gamers generally denounce those players who translate on-screen violence into real-life situations as being extremists who give video gaming a bad reputation. Video games have been the source of much public and media interest in recent times, taking prominence in censorship debates which previously focused on other types publications, such as books, magazines and other literary objects, which continue to require monitoring and regulating.

## 5.4 The Library

As libraries expand their collections and begin to offer a wider variety of publications for loan by its members, different elements of censorship enforcement arise that previously were not of great concern. Very few books are given an age restricted rating by the Office of Film and Literature Classification, most likely because of the argument made by the Office that “unlike a film, a book of text does not make a sudden and colourful impression on naïve viewers”(OFLC Annual Report 2005, p.26).



One of the exceptions is Bret Easton Ellis’s “American Psycho” (1991, Random House Inc, New York). This book carries a classification of being restricted to persons eighteen years of age and over.

*When searching for this title on the library’s online catalogue, amongst other relevant information such as publisher and date, this notification of restriction is highlighted in red, and repeated again at the bottom of the page. The library has five copies of the book, and its location is listed as “First Floor Stack”.*

*Searching the signs displayed around the library that list the location of various genres, none seem to indicate the place where the book is located. Upon asking a librarian at the issuing desk, directions are given to go up to the first floor, ask at the information desk, and a librarian there will go and retrieve the book from the ‘stack’.*

*At the top of the escalators, the information desk is clearly visible. When given the name of the book in question, and its author, the librarian leaves the desk, moves across the first floor back past the escalators and leaves the public area through a door restricted to staff by an employee access card. A few minutes later, the librarian reappears with the book.*

*- Field Research at Public Library, 02/02/2006.*

When asked whether they would refuse to get the book for a young person, or ask for proof of age identification, the librarian who retrieved the book said that they would not do so at that particular desk. Instead, he replied, the person might be refused loaning of the book at the issuing desk. He commented that it was difficult to guess a

person's age (especially a woman's), and that he would consider it a matter for the issuing staff. However, on a separate occasion a staff member said that she would expect that identification would be requested prior to retrieval of the book from the stack. Other publications kept in the 'stack' are not necessarily restricted materials, instead they are mainly older books, which may be too delicate to sit on the shelf, or back issues of magazines.



Restricted books are usually not kept on a shelf in the public area of the library, eliminating the possibility of an under-age reader accessing it himself or herself.



However, upon a return visit to the library, the catalogue listed a copy of *American Psycho* as situated on the ground floor.

Inspection of the shelves located a new copy of the book, absent of any label indicating its classified status. When questioned as to how this had occurred, staff concluded that the staff member who processed the book and entered it into the library's collection must

have overlooked the restricted nature of the publication. Alternatively, it was suggested that a borrower might have peeled off any classification labels while the book was issued, and so upon return it was shelved in the public section.

The library also stores books of a restricted nature in their Research Room, the contents of which can only be accessed by staff. The majority of the material in this room is restricted from general access due to its delicate nature, or rarity, however there are also a few classified titles in this area. Members of the public must fill in a form and provide identification to access any of the material in this collection, and so the need for staff to request proof of age identification is negated. In addition to this, the classified publications in this room carry large, bright labels indicating their classified status. This information is also displayed in the library catalogue.





The library has a comprehensive range of magazines of various genres, with a range of topics including sport, gardening, health, fashion and home decorating. While there are many magazines targeted at women such as *Cleo* and *Cosmopolitan*, which frequently discuss sex and sexuality (some contain a ‘sealed section’, which contains explicit articles most commonly on the topic of sex), there are no equivalent male magazines (such as *Playboy* or *FHM*). There is a section for ‘Men’s Health’ magazines, located between the genres of ‘Health’ and ‘Well Being’.

*On the shelf with the sticker that reads ‘Men’s Health’ there is a sole magazine resting against the wall. It is “Advocate – National Gay and Lesbian Newsmagazine”. This particular issue is titled “Summer Sex Issue” and includes pictures of scantily clad men in intimate embraces.*

*- Field Research at Public Library, 02/02/2006.*

Decisions as to the content of the libraries collection are made by a committee of buyers, and are generally made on expectations of reader interest in a particular subject. It is largely a business purchasing decision, according to an information librarian on duty, as there “would be little point in getting things that no one would read”.

Library membership is divided into categories of child cardholders and adult cardholders, with different borrowing charges for the two groups. A person aged eighteen years and younger holds a child card, while those members aged nineteen years old and over are required by the library to hold adult membership. There is no distinction between an eighteen year old with a child membership card and a fifteen year old, a twelve year old, and so on. No restrictions on the electronic lending system prevent a child card from loaning restricted material. Therefore, an under-age person

could arguably easily access a classified book by requesting it from the stack and then using the self-issuing system to loan the book.

In the same way, age classifications on DVDs and videos are not enforced by any regulated system, such as membership cards. Older DVDs and videos are available for loan at the cost of \$1, and these have the disk or video inside the case on the shelf.



*In the children's section of the library, there are ten computers, used for games targeted at primary school aged children, primarily of an educational nature. There are no video game consoles to play in this library, nor are there games available for borrowing. There is, however, a small collection of videos, DVDs, CD ROMS and cassette tapes, all of which carry either a G or PG rating. A sign on the shelf next to the videos informs borrowers that all disks and DVDs are issued at the children's section desk.*



*On the other side of the main entrance to the library is the adult and young adult fiction section. A directory board shows videos and DVDs as being located next to 'paperbacks'. The DVD's are on one shelf, videos on the two shelves below, a very small range. There are at least two restricted titles available – the DVD of "From Hell", rated R16 and the video of "Band of Brothers", rated R15. The publications are in no discernable order of title or author, and the disks and videos are present inside the cases on the shelf.*

*- Field Research at Public Library, 02/02/2006*

With the contents of the DVD and video cases already in place, persons restricted by the classifications could easily access the publication through the self-issuing desk. The only barrier to this is the charge on the hire of the object, and a prompt at the self-issuing desk will direct the user to go to the main issuing desk. At this point, an observant librarian may ask for proof of age identification. However, there is no formal training given



to staff in relation to this, and no signage present at the issuing desk explaining the meanings and implications of the Office of Film and Literature Classifications' ratings and classifications.

*Upon inquiring about relevant signage, an issuing desk librarian gives direction to ask the popular culture librarians, whose desk is located at the far end of the ground floor, as she thinks they have signs there. However, at this desk, it appears that the sign has been misplaced. It is a standard sign, slightly larger than an A4 piece of paper, sent to the library by the Office of Film and Literature Classification, and is usually placed in a plastic holder on the shelf near the DVD collection. The popular culture librarian explains that this is all new, the DVD collection, and things are still being sorted out. After searching for a few minutes, the sign is declared temporarily lost.*

*- Field Research at Public Library, 02/02/2006.*



A later visit to the library again found no apparent signage regarding classifications. However, upon further investigation by the librarian on duty, the official signage from the OFLC was discovered on the shelf with the older videos, in a Perspex holder behind a sheet of paper outlining the cost of hiring a video.



When a DVD or video is brought to the issuing desk, staff are trained to open the case to ensure that the contents match the cover, and that all components are present. This ensures that people do not go home with the wrong material, either unintentionally or through deliberate deception. New DVDs in the library's collection (the only videos are in the older section) are located separately from the older ones, at the end of the ground floor fiction closest to the entrance, under a sign that reads 'Bestseller Books'. These DVD's are available for hire at the rate of \$3, and are again displayed in random order, with more popular titles located in the centre of the display. These DVD's do not have the disks inside the cases, and the librarian at the



issuing desk must retrieve these. There is no formal policy for staff to ask for identification when restricted materials are borrowed, and this is instead done at the discretion of the staff member handling the transaction. A borrower's date of birth is required when obtaining membership to the library, however this is not displayed on the librarian's screen when the membership card is used to borrow items. It can be accessed if the librarian wishes, but this is not done on a regular basis.

The library places the responsibility of monitoring children's access to publications on the caregivers of the child. Though the websites of both the individual library (<http://library.christchurch.org.nz/Policy/>, accessed 31/05/06) and the Library and Information Association of New Zealand Aotearoa (LIANZA) ([http://www.lianza.org.nz/about/governance/statements/services\\_children.html](http://www.lianza.org.nz/about/governance/statements/services_children.html), accessed 31/05/06) have policy statements about their operations, neither specifically addresses the issue of restricted publications in the library and the enforcement of censorship classifications. The LIANZA website's page on services to children focuses on the association's goals to provide quality services to children, while the individual library's website outlines the policy for children supervision when in the library. It primarily emphasises that it is the caregiver's responsibility to look after the child, though library staff may become involved if children are left unattended and become distressed or disruptive.

Security cameras are located throughout the library, with numerous cameras in the entrance and issuing desk area, mainly focused on the exit. The entrance and exit of this library are located next to each other, designated by signage and by swinging gates that only allow a person to move through in one direction. The exit gates are also equipped with an alarm system which activates when a publication is carried through which has not been 'de-magnetised' at the issuing desk, and so there are numerous tools utilised by the library staff to prevent people leaving the library premises with unauthorised objects. While this is largely to prevent theft, these can also aid in the enforcement of censorship classifications of some publications, requiring that all borrowing of DVD's and videos must involve an element of interaction between the staff member and the borrower. The expanding range of

objects circulating within and exiting the space of the library and the resulting responses being developed by staff to police them are similar to those practices exhibited at bookstore.

## 5.5 The Bookstore

Increasingly bookstores are offering customers a range of products that extends beyond printed literature. Board games, novelty gifts, cards, music, videos and DVDs are just some of the objects that are now found in many ‘book’ stores. As with the library, the range of objects flowing through the store creates new situations where censorship classifications are present to be regulated and monitored by delegated agents, in this case staff members in conjunction with various tools including electronic alarm gates, security cameras and censorship signage and labelling.

As previously discussed, few books in fact receive an age-restricting classification from the Chief Censor and the Office of Film and Literature Classification. The title which is most well known amongst bookstore staff as being restricted is the previously discussed “American Psycho” (1991, Random House Inc, New York) by Bret Easton Ellis.

*We had a bit of an incident where a 13 year old shoplifter stole “American Psycho”, and after finding out who it was, our manager went to his house to speak to his mother, to point out that not only should the kid not be shop lifting, but that the book he’d taken was actually R18 so he shouldn’t be reading it anyway.*

*- Bookstore employee, brief conversation early 2005.*

The book does not carry the same ‘R18’ label as films with this classification, though a label on the book does inform the reader that the book is restricted to persons aged 18 years and over. At the bookstore, “American Psycho” is on the shelf, but in order to prevent under-age people reading it in the store, it is ‘shrink-wrapped’ (wrapped in a thin layer of plastic). However, occasionally staff will find objects that have been bound in this way (such as pornographic magazines) in other parts of the store, where people have taken them and unwrapped them to read.

*They will take them to another part of the store, and then they will read them and leave them. I think there's once instance I know of that it's been [left] in the kids section, so we always get very annoyed at that.*

*- Interview with Bookstore employee, 17/10/2005.*

Beyond routine movement around the store, and despite the presence of security cameras, it is unlikely that staff will catch someone doing this, as it is not uncommon for customers to read books in the store (in fact it is encouraged), and so to see someone sitting in a corner reading would not be cause for concern. When staff do come across abandoned items that have been unwrapped, there is little they can do about the person who accessed it. Provided the item is still in sellable condition, it is taken into the back of the store where an on-site shrink-wrapping machine reseals the book for it to go back out on the shelf.

When a new book was released in 2005 from the author of “Fight Club”, the film of which is well known for its violent content, there was a strong reaction to it with reports of many readers being so physically disturbed that it made them vomit. This book was displayed in multiple copies in a prominent area in the store. However, a store employee commented that she never saw any kids looking at the book – “I think their attention span doesn’t allow for skimming and perusing books, whereas with graphic novels and magazines it’s much easier,”.

The store is divided into sections by genre, with sections of shelves in the middle of the store and ‘bays’ located around the walls. The magazines are located at the front of the store, near the counter, and three tiers of shelves run along a section of the wall. Within the shelves, the magazines are organised into genres, with labels denoting each section. The pornographic magazines are located on the top shelf, and are usually wrapped in plastic, with nudity obscured from view by blackened sections in the plastic, though occasionally staff will find someone has poked holes in the plastic to get a glimpse of what is underneath.

The 'sex and erotica' section is the only area in the store where there is a convex mirror suspended from the ceiling, making the corners of the area visible from outside the bay. There is also a pillar standing in the centre of this bay, directly in front of the 'sex and erotica' shelves. The mirror, located on the back wall of the bay, is positioned both to act as a deterrent to any inappropriate behaviour and to allow staff to monitor the area. It is located on the back wall of the bay, next to 'self-help' and 'psychology', and one bay over from the children's section.

*There's been talk of dodgy things happening there...we have had problems with a young boy who always comes in. He seems to know exactly where to find the really grotty, explicit books. And we've had to ask him to leave quite a few times.*

*- Interview with Bookstore employee, 17/10/2005.*

Though many of these books are not restricted by the Office of Film and Literature Classification, staff will hesitate and may refuse to sell to children items that they deem to be unsuitable. Staff are aware that the store has a company policy regarding this, though there is no signage to inform customers.

The store has a wide selection of DVDs, videos and music for sale, much of which carries a restricted rating. There is signage (supplied by the Office of Film and Literature Classification) displayed on a pillar in the DVD section explaining for the benefit of customers what the labels and classification mean. However, when it comes to the sale of restricted items, there is no staff official training given in relation to enforcing the censorship classifications.

Q: Are the staff trained in asking for ID and the sorts of ID that are acceptable?

A: *Not trained, no.*

Q: So how do they know?

A: *It's sort of bit like with serving alcohol, you just use your own discretion.*

Q: Are they told at some point that there are some items that are restricted?

A: *I think the only time I've heard actual official word is with magazines.*

Q: So when you start working there, there's not as part of your training,

“so here’s these things and if someone comes up this is what you should do if they look under the age of x?”

A: *No.*

Q: Have you ever had to ID anyone for anything at the store?

A: *No, I haven’t, no. Well, I did ask that boy I was telling you about who usually goes straight to the sex section and the other sections in the store where you’re able to find dodgy things. I did ask him for his ID, and he pretended to look for it, and then was like “oh, I don’t have any”.*

*- Interview with Bookstore employee, 17/10/2005.*

Though the store carries pornographic magazines and erotic literature, they do not stock pornographic DVDs or videos. They do however stock a range of restricted media. Stock decisions are made on a similar basis to the library – “whatever’s going to sell”.

There is no prompt on the registers for staff when restricted items are sold. Staff are allocated an area of responsibility in the store, and will look after designated sections for months at a time before swapping around with other staff.

*I think if somebody hadn’t sort of informally said something when we were opening up...or before we opened the store there were lots of people from different [company] stores, and um...probably one of them just said something on the, as an aside maybe. But I think people just generally know to enforce it. But yeah, there’s definitely no training.*

*- Interview with Bookstore employee, 17/10/2005.*

Steps are taken to ensure that objects do not leave the store unauthorised. Magnetic strips of tape are placed in the middle of books which activate security gates at the store’s entrance/exit if they have not been demagnetised by staff at the sales desk.

## 5.6 The Video Store

The majority of video stores carry restricted materials in their collection, and so the issue of censorship and monitoring the flow of these objects (and of people in relation to them) is acutely relevant to this site of consumerism. Membership is restricted to



persons aged 18 and over, and proof of age documents such as a photo driver's licence, 18+ card, firearms licence and passport must be presented at the time of becoming a member of the store. As with the library membership and issuing system,



the cardholder's proof of age does not appear on the regular issuing screen of the computer, however the information (obtained when joining) is easily accessed by a staff member if needed. However, despite the requirement of age to gain membership, it is possible for other users to use the membership card if they know the appropriate password or pin number.

**Q:** Do you have to nominate specific people, or do they just have to know the password/pin number?

**A:** *Just know the password. They don't have to have the card on them, we will look the membership up. It's on the membership form that the password, and who knows it, is the member's responsibility.*  
*- Second interview with video store employee via email, 12/02/2006.*

Therefore, presentation of a membership card does not necessarily mean that the person wishing to hire a video or game is 18 or over, and so there is potential for restricted items to be hired by underage persons.

At the particular video store used for this research, the store has five employees, however, usually there is just one person working in the store at a time, with two on weekend evenings. Despite the prevalence of restricted titles available in the store, there is minimal training given to staff in relation to methods of enforcement of these classifications. The training is described by one employee as "very basic unfortunately... Mostly it is assumed they will follow common sense. We do clarify that if [staff] are in doubt of someone's age, and they cannot prove it, do not hire the item to them". Though there is little training given, when asked whether he thought the staff enforced the classification rules, the same employee replied:

*Yes, I do myself, and I would expect the same from my staff. I'm sure some items slip under the radar however.*

*- First interview with video store employee via email, 02/02/2006.*

Stores often have a few in-store televisions, on which videos are screened at staff discretion. To screen restricted titles would be a breach of the classifications, as



access to the store itself is not age-restricted. Therefore, at the video store, only items rated G or PG are displayed on these in-store televisions, though “theoretically we could display M rated titles as well, but as a store policy we choose not to”

(Video Store employee, 02/02/06). The store also has a ‘previewer’, a device attached to the shop wall that plays a set range of trailers (also known as previews) for both games and movies, which has been compiled by a distribution company.

As these disks are publications in themselves, they too are rated and censorship certificates are displayed with the machine. As mentioned in the previous chapter, all trailers are rated, however the majority do not carry a restricted classification, presumably to allow maximum potential for advertising. The

disk currently screening in the store features an R16 movie, however prior to the trailer the viewer is informed of both the classification of the movie being advertised and the rating of the trailer – in this case, the rating is M.



The OFLC supplies the store with a poster, A3 in size, which explains the ratings and classifications and is usually displayed on the wall



behind the counter area. However, a visit to the store reveals no such signage present, to the surprise of the staff on duty. After a brief discussion, the staff members conclude that it must have been taken down to make way for a colouring competition promotion the store is running. While the signage explaining the classification labels is not displayed, the store does display a sign informing customers that they will not rent restricted material to ‘anyone who is underage’, followed by a brief explanation of the restricted classifications. This sign is displayed twice in the store, once on the back



wall of the counter area and once near the video game 'previewer', next to the adult only room.

All videos are required to have the rating/classification label clearly visible on the cover of the object. Though customers do not often query staff as to what the labels or restrictions mean, it is unlikely that this is due to a clear understanding of the label on the part of the borrower.

**Q:** Do people ever ask what the signage or censorship stickers mean?

**A:** *Not in my experience, unless the movie is straight "R" rated (not R13, R15, R16, or R18), with no ages clearly attached, and then they just want to know what age it is restricted to. "Kingdom of Heaven" is the most recent title like this. The notes on the "R" rating specify that it is not to be sold/rented to persons under 13 years of age.*

*- First interview with video store employee via email, 02/02/2006.*

It is requirement of the Act that all films (this definition includes videos, DVDs and video games) carry an official label issued by the Film and Video Labelling Body (in the case of ratings) or the Office of Film and Literature Classification (in the case of classifications). These should be displayed on the front cover of the object and in the case of a video, the label should also appear on the cassette itself. The Censorship Compliance Unit does not require labels to be placed on DVDs or discs, as they acknowledge that doing so can interfere with the performance of the disc.



A variety of techniques for restrictions on display are suggested in the Act, however the ones that are prevalent to videos are:

“(a) that, when the publication is on public display, the classification given to the publication must be shown by way of a label...

(d) that –

(i) the publication; or

(ii) any advertising poster relating to the publication, - or both, must be publicly displayed only in premises, or a part of premises, set aside for the public display of restricted publications...”

(Films, Videos and Publications Classification Act, 1993, Part 3, s27).

Other restrictions include the requirement to display objects in sealed or opaque packaging, however this is not used at the video store, largely due to the rental nature of the business. However, “any covers featuring explicit sexual or R18 images are in the adult only section. The entrance to this section is 'L' shaped, so no items are visible from the main shop area” (first interview with video store employee via email, 02/02/2006).



While some chains of video hire stores do not offer ‘adult’ products (that is, pornographic videos), other stores have designated areas set aside for display of such items. Under Part 3s27 of the Films, Videos and Publications Classification Act 1993, the Classification Office is entitled to impose conditions on the display of restricted items:

(3) Where the Classification Office considers that the public display of the publication, if not subject to conditions under this section, would be likely to cause offence, the Classification Office shall, at the time of classifying the publication, impose such conditions under this section in respect of the public display of that publication as it considers necessary to avoid the causing of such offence.

The adult’s only room in this store is found by moving from the main store entrance, turning to the right and going behind the “For Sale” section. The start of the hallway leading to this room is “clearly visible from the entire counter area” (Video Store Employee, 02/02/06).

*There is an X-rated sign on the entrance...The area has such a taboo with customers that they all know what it means. The sign states that only people 18 years or older are allowed to enter.*

*- Second interview with video store employee via email, 12/02/2006.*

Staff informally monitor access to this room, by both visually monitoring movement of patrons in the store and by physically going into the room and observing the occupants. While there is currently no camera system set up to enable remote monitoring of the room, this is something that staff have expressed a desire for.



The publications relegated to the Adult Room (or the “porn room” as its known amongst staff) are those of a pornographic nature, and are restricted to display in this area due to the nature of the material which is clearly visible on the case of the object.

Other explicit videos and DVDs that have received a highly restrictive classification due to other factors, such as violent content, are placed in the main store area as they do not show explicit material on the covers, while films with sexual content but without “actual nudity” on the covers are generally placed in the ‘erotic thriller’ section (text message communication, video store employee, 24/03/2006).



**Q:** Who decides when a video qualifies to be in the adult section? Is it a discretionary call by the storeowner, or is there some directive given when the video/DVD comes into the store (if so by whom?)

**A:** *Hmmmmmm, I've never really thought about it to be exact. Basically, if it has explicit sexual images or nudity on the cover, it's going in the adult only room. It's pretty obvious when a title should be in the adult only room. A title like “Nude Women's Wrestling League” however, is R18 and says on the sticker it contains nudity, but there is none on the cover. It's in the action section (a personal joke between myself ....and myself)... There are titles like “Deviant Passions” and “Bodily Sanctions” that I would classify as an erotic thriller. I'm pretty sure they are basically soft-core porn (sex, but no explicit genital shots is my understanding, I'm yet to watch either title). We get them in for people that want to rent porn, but without the stigma associated.*

*- Second interview with video store employee via email, 12/02/2006.*

Due to display nature of videos and DVDs in the store, that is, on the open shelf as opposed to behind glass, it could be possible for people to swap the contents of cases

in order to ‘smuggle’ a restricted publication out of the store inside an unrestricted item’s cover. However, in response to this possibility, video stores have enacted measures to prevent such attempts at deception (and incidentally potential theft of objects). Game discs, ‘New Releases’, adult DVDs and newer adult video tapes are kept behind the counter, and must be accessed by staff before the item can be issued. It is also not possible (or difficult in the case of videos) for customers to ‘switch’ discs and tapes between cases, as the video store employee explains:



*This could only happen with videos, as all the DVD cases cannot be opened out in the store as they are locked. You do get the odd case of a tape switch-around, but it’s (in my experience) always the last person that rented it has swapped it around at home by accident with another title they have rented. Usually you pick it up when you’re scanning them through being returned, but not often. Adult tapes are usually bright pink or red, so they are clearly visible. They all have R18 stickers on the actual video themselves as well, that’s another tell. I’ve never struck a case of someone trying to rent an adult tape inside a generic movie case however.*  
*- Second interview with video store employee via email, 12/02/2006.*

When an item is hired, staff take the object from the customer, scan it and then ‘unlock’ the item by removing the red plastic strip that seals the case. This is done at the till, and works via a magnetic system into which the item is inserted then removed, leaving the lock behind (Text message communication, video store employee, 24/03/2006). After receiving payment, the object is then placed on the counter, by the exit and beyond the security sensor system. Customers are then required to walk through the security gates to pick up their hire, ensuring that they are not attempting to smuggle out any other videos. According to the staff member, “all items that are ‘live’ in the store (have their discs or tapes actually inside them) have a security bug in them. There is a proximity sensor in the shop entrance/exit that sets off an alarm if one of these bugs comes near it” (first interview with video store employee via email, 02/02/2006).

Though the age-restrictions on videos are applicable and enforceable at sites of private use (that is, in the customers home), there is little video store staff can do to ensure that the classifications are effectively administered beyond the doors of the store. Though there are requirements of age to gain membership, and staff can ask for proof-of-age identification when a restricted title is hired, there is nothing to prevent a parent, sibling or older friend from hiring an item on behalf of a younger person. When asked whether staff would remind people in such situations that the restrictions still apply at home, the response was:

*No, as I wouldn't consider it my place to interfere with someone's parenting. If they choose to let their children watch R rated movies or play R rated games, it's their decision.*

The only opportunity for video store employees to actively police and enforce censorship classifications is in the event of a young person (who is prohibited from accessing a publication by the classification it has received) attempting to hire or purchase a restricted video or DVD.

*Kids try it on all the time. I discovered that one guy who I have been renting R16 movies and games to for a month or so is only 14! His mother was in the other day and we were chatting. She didn't mind at all however... Needless to say, it doesn't happen anymore, and I gave him shit about it next time he was in. In a joking manner however.*

*When we first opened, a guy came in to sign up. Turns out, he was only 16. He got his big brother to sign up and uses his membership. About 3 months later I saw him walk into the adult only room. I twigged that he was only 16 and went in there under the pretence of getting something from the storeroom and shooed him out.*

*Every now and then, you get little kids wandering into the adult only room. They usually run straight back out or you just tell them their parents wouldn't want to find them in there.*

*- First interview with video store employee via email, 02/02/2006.*

Ultimately, video store staff aim to monitor and police the access of under-age persons to age-restricted materials within the site of the video store itself.



Q: Do you ever find R18/adult videos in other sections of the store that people have put there?

A: *It has happened, yes. Only once in recent memory. Luckily an adult spotted it and let us know.*

*- Second interview with video store employee via email, 12/02/2006.*

However, there is little they can do to ensure that the items they are issuing are not accessed in violation of the classification once the publication leaves the store and enters the realm of the private home.

*Sometimes you get sort of slip-ups with staff, a number of these places have pretty high staff turnover. They don't, they either forget to or can't be bothered, telling all their temporary staff and the replacement staff about all the rules and regulations.*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

## 5.7 Private versus Public

The debate over censorship is often framed in terms of a distinction between the public and private spheres, a distinction involving the question of legitimate limits of state interference in everyday life. It is generally argued that a balance must be struck between people's right to see, read and hear what they want and 'the public good'; a balance sometimes summed up as being between 'prudity and nudity'.

(Watson & Shuker, 1998, p.19).

As suggested by Watson and Shuker, tensions over 'the right to censor' become increased when the proposed site of censorship enforcement is shifted from a public space, such as a cinema, to the privacy of an individual's home. Numerous arguments have been made about the extent to which government agencies should 'interfere' in people's freedom to choose what objects and publications they interact with.

However, just as many arguments are put forward that there is a necessity for some form of official regulation in order to protect the interests of other and prevent injury to 'the public good'. Watson and Shuker (1998) argue that there already exists a precedent for state involvement in the 'private sphere', in the form of legislation designed to 'protect' people, such as that which requires swimming pools to be fenced, or which criminalise personal use of drugs (p.19).



The Office of Film and Literature Classification emphasises that the classifications still apply in the home, with an article on their website entitled “What the law says about restricted publications in your own home”. The website informs readers that ignorance is no defence in regards to the restrictions, as bright red classification labels are affixed to all restricted publications, detailing the definition and implications of the classification. The article also defends the OFLC’s decision to restrict access to publications to certain ‘classes’ of persons, and reaffirms the role and responsibility of both parents and agencies, such as the OFLC, to ensure that the classifications are upheld:

The Office often finds that the public good is likely to be injured when a publication is exposed to someone who is likely to misunderstand it, to be disturbed by it, or to have negative attitudes introduced or reinforced by it. This can happen regardless of where, or in whose presence, the publication is viewed or played. For this reason, parents who show their children, or allow their children to watch, restricted videos and DVDs, or who allow their children to play restricted computer games, commit an offence, and do their children, and society, a disservice. ...parents should use the Office’s restrictions as information that will enhance their ability to raise children who will become media-savvy adult members of a more civil society.  
([www.censorship.govt.nz/news17.html](http://www.censorship.govt.nz/news17.html), accessed 9/12/2005).

Parents are a primary factor in censorship enforcement, particularly regarding access to materials within the home, as age-restrictions primarily concern limiting the access of young people and children to certain objects. Many parents argue that they should be able to decide what their child can watch or play regardless of the censor’s classification, while others may not be aware of the existence of classifications, their implications or the type of content that they relate to. The fact that such access, when it occurs, does so behind closed doors, makes detection and prosecution difficult if not impossible, particularly “when the parents of the children are involved and where the conduct involves no more than leaving the relevant material and the videotape recorder unattended” (Watson & Shuker, 1998, p.20).

As discussed in the work by Jancovich, the creation of tension between the institutions of the state and the family over authority in relation to censorship enforcement was heralded in the 1980s in the United Kingdom by two competing campaigns both centred on government of the family:

The video nasties campaign called for experts to police what would be available in the home and so take the decision out of the hands of parents who, it was claimed, were in some cases too liberal in their values to be trusted. However, in roughly the same period, a campaign led by Victoria Gillick and others also attacked liberalism but called for the right to prescribe the pill to young girls to be taken out of the hands of experts such as doctors, whose liberalism meant they could not be trusted, and required that they obtain the permission from parents before the pill could be prescribed. In both cases, sanctity of the family is invoked, but it is not the family that is valued, but specific values. In one case, that family is equated with permissiveness and experts are required to police it, and, in the other, experts are associated with permissiveness and the family is required to police them.

(Jancovich, et al., 2003, p.195).

While classifications are still legally applicable when a video, game or book is taken home, the use of classified publications is unseen by enforcement agencies and thus there is little to stop adults or teenagers from allowing underage children access to the restricted material. It is a common perception amongst other enforcement delegates, such as cinema operators, that these mobile objects are less accurately regulated than more publicly consumed types of publication:

*There is no real censorship when it comes down to it, because most kids have seen all the r-rated product once it's out on video, because the older brother gets it for them, or the parent gets it for them, or, they go and get it and the video store generally don't even ask. I know that because when I was under the age of 15 or 16, I used to go to the video store and get it. My family, kids in my family who are younger, they do it. And there's no real enforcement at that video store level, or there doesn't appear to be... There are the fines and the fees and everything else that go along with it, but I think that my managers are generally very hard on the staff, and, enforcing those rules, and if we catch a staff member out who doesn't enforce those rules, then the penalty for them is a warning and being fired. There's 10 staff downstairs right now with one manager overseeing them, plus then there's myself as well. In the video store there might be two people there and they both might be 16. So what's to stop them from letting their mates, or anybody else having the videos?*

*- Interview with Cinema Complex Manager, 07/10/2005.*

## 5.8 Conclusion

Debates surrounding the division between public and private realms, the right of the government to interfere in the 'private', rest largely upon arguments over whether the consumption of certain visual material affects only the individual watching it or instead poses a potential risk to others in the community (Watson and Shuker, 1998, p.19). Does the context in which popular culture is consumed affect the response of the (individual or collective) audience? Such questions and concerns, originating with the introduction of video into New Zealand in the 1980s, are at the centre of the controversy surrounding censorship practices today. The implications for enforcement agencies with increasingly privatised consumption of restricted publications are significant and become increasingly problematic as technology allows such publications to become mobile and be circulated in ways that are not easily detectable. However, there are processes and practices in place, created and delegated to various agents and agencies dealing with classified publications, which operate with varying degrees of efficiency and success. As we shall see in the following chapter, the Internet highlights a significant site where censorship classification enforcers adapt their methods in response to the changing types of publications and users under surveillance.

## 6. The Internet

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### 6.1 What is ‘the Internet’?

The internet transcends the social and legal jurisdictions of state and nation and, as a result, there are virtually no limitations to the type of information obtainable. Furthermore, the perceived anonymity of the Internet reduces the applicability of social and legal restrictions on individual activities that occur within its realm. It provides a means by which individuals interested in illegal activity may access information to support that activity, and make contact with other individuals involved in it.

(Carr, 2004, p.9).

Much of the literature written on censorship and control of the Internet highlights the problems involved in such an endeavour, for the most part concluding that successful policing and regulation is often impractical or futile, if not near impossible (Lacharite, 2002; Reidenberg, 1996 as cited in Akdeniz, 2001, p.115; Grabosky and Smith,

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<sup>7</sup> Images in this chapter have been downloaded from the Internet. References for these images can be found in Appendix 2.

1998). However, as cases such as the Chinese government's blocking of Internet content which "endangers national security" (Lacharite, 2002), the US government's Communications Decency Act 1996 (Akdeniz, 1997, 223), the British police's 'Operation Starburst (Akdeniz, 1997, p.229) and the Singapore government's requirement of Internet providers to apply for approval from the State Council (Kizza, 1998, p.152) show, there *can* be limits to the types of information and content posted and accessed by Internet users.

Thus far, this thesis has examined sites of censorship enforcement at which the surveillance of censorship classifications is done through policing and regulating individuals in 'real' spaces. In other words, social spaces such as the cinema and bookstore have limited and recognisable points of entry and passage, and deal with publications which are tangible to the extent that their movement can be tracked and/or restricted with relative ease. The Internet is generally conceptualised as a virtual site, where censorship enforcement is not easily enacted and which has created (and continues to create) numerous challenges for those charged with the duty of policing and enforcing policies such as the Films, Videos and Publications Classification Act 1993. However, this chapter argues that it is not impossible to police the Internet, as shown by the existing processes and practices which form the basis for discussion in this chapter. This is also noted by Miller and Slater:

...the Internet is not a monolithic or placeless 'cyberspace'; rather, it is numerous new technologies, used by diverse people, in diverse real-world locations.

(2000, p.1).

Information retrieved from an interview with the Censorship Compliance Unit (CCU) has contributed significantly to this chapter, providing insight and revelation of the workings of censorship enforcement in relation to the Internet.

The focus of this chapter is to examine the practices involved in attempting to deal with and control distribution of classified materials on the Internet, predominantly publications deemed 'objectionable' as opposed to the enforcing of age-based

restricted classifications. Under Part 1, section 3 of the Films, Videos and Publications Classification Act 1993, a publication is objectionable if:

...it describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good.

...a publication deals with a matter such as sex for the purposes of that subsection if –

- (a) the publication is or contains 1 or more visual images of 1 or more children or young persons who are nude or partially nude; and
- (b) those 1 or more visual images are, alone, or together with any other content of the publication, reasonably capable of being regarded as sexual in nature.

(Films, Videos and Publications Classification Act 1993, Part 1, s3 (1), (1A)).<sup>8</sup>

Application of the Act in relation to material suspected to be illegal requires interpretation on the part of the enforcement agencies. Akdeniz (2001, pp.114-116, 124) highlights the distinction that should be made between ‘illegal content’ and ‘harmful content’ - “the former is criminalised by national laws, while the latter is considered as offensive or disgusting by some people but certainly not criminalised by national laws” (p.116).

Technological developments have changed the scope of the work carried out by the Censorship Compliance Unit in New Zealand, which was established in 1996. Sites such as cinemas or bookstores have definite points of entry, points of sale which can generally be monitored with a high degree of success. However, the ‘virtual world’ of the Internet does not share this consistent physicality in its structure. In the case of the Internet, the points of entry and monitoring change. Censorship enforcement agencies resort to ‘undercover’ tactics to track the more informal and increasingly global networks of cyberspace, such as peer to peer exchanges and internet chat rooms.

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<sup>8</sup> For a full definition of ‘objectionable’ under the Act, see Appendix 3.

Surratt argues that the Internet is a collection of technologies (1998, p.xi). Grabsoky and Smith (1998), drawing on a communication model provide a concise definition of what they consider the Internet to be:

The Internet is an international environment in which individual nation states are interconnected. Data networks are connected with one another by a common set of protocols such that text and images can be sent and received within seconds throughout the world. Communications are able to be made between computers located in one building or organisation via a local area network, or over greater distances through metropolitan and wide area networks.

(p.5).

The Internet does not ‘exist’ in a public site in the same way that a bookstore or cinema does. Instead, it is generally accessed at people’s homes, their workplaces, in private and hidden spaces (Carr, 2004, p.5). Therefore it cannot be policed by more traditional methods.

This method of communication has resulted in an explosion of Internet-based illegal activity. Though there are methods of tracking and identifying users, the relative anonymity provided by the Internet “has removed risks that might have deterred some people from trying to access child pornography, such as the chance of being identified when purchasing it from certain sex shops” (Department of Internal Affairs Press Release, 5/03/2003).

## **6.2 Rating the Internet**

Though the Internet does not exist as a tangible site of operation, there are various objects and tools incorporated in accessing it and in attempting to moderate its content. Censorship enforcement agencies engage in tracking these specific objects and tools that become mobilised through chat rooms, email, attachments, peer to peer files, and so on. Tracking of this sort requires legal support but also provokes public response.





Rating systems are designed for World Wide Web sites, leaving out other popular Internet-related communication systems such as chat environments, file transfer protocol (ftp) servers, Usenet discussion groups, real-audio and real-video systems which can include live sound and image transmissions, and finally the ubiquitous e-mail communications...

Moreover, it has been reported many times that filtering systems and software are over-inclusive, limiting access and censoring inconvenient websites, or filtering potentially educational materials regarding AIDS and drug abuse prevention. Therefore “censorware” enters the home under the guise of “parental control” and purporting to be an alternative to government censorship, but in fact such systems impose the standards of the software developers rather than leaving the freedom of choice to the consumers who buy and rely on such products. The companies creating this kind of software provide no appeal system to content providers who are “banned or blocked”, thereby “subverting the self-regulating exchange of information that has been a hallmark of the Internet community” (Computer Professionals for Social Responsibility, 1996).

(2001, pp.128-129).

As the above quote highlights, Internet Service Providers (ISPs) can block types of content from appearing on its servers. However, the risk of such attempts to censor is that numerous ‘innocent’ sites may inadvertently become inaccessible to users, as was the case when in 1996 Telecom blocked access to news groups “in an attempt to shut down distribution of illegal material”. A spokesperson for Telecom defended the company’s inability to effectively regulate Internet content on its servers:

The Internet is everywhere and nowhere. We don’t know what is out there...It’s a bit like building a highway and being blamed for the actions of a drunk driver on it.

(Bain, *The Dominion Post*, 3/07/97).

Though such attempts to police and regulate Internet content and access are potentially problematic, as detailed above, that does not negate their existence. Though many authors argue that the Internet cannot be regulated because it is a global, virtual, intangible system, the processes explained in this chapter highlight that it can be done. The extent to which such practices are successful may not be large, but nevertheless there is a significant degree of success achieved by enforcement agencies such as the Censorship Compliance Unit.

Though officials encourage an element of voluntary self-regulation at sites such as the cinema and the bookstores, this is more explicitly advocated in relation to the Internet and its users.

## 6.3 Legislation

Changes in the capacities of technologies have resulted in the refining of the various facets of legislation which govern their use. As the scope of trafficking of objectionable images has expanded, there have been changes in enforcement strategies both in the private and public sectors. Issues of refining definitions such as what constitutes possession of a publication are similarly of significance to both users and officials.



Users of the Internet are a diverse group, covering the spectrum of ages, genders, ethnicities and classes. As access to the Internet increases, with connection points now present in many libraries, schools and cafes, many people are becoming

increasingly sophisticated at manipulating the technologies of the Internet to meet their requirements, legal or otherwise.



In response to early moral panic in the 1990s surrounding the growth of the Internet, police warned ISPs that they would be liable for illegal content found on their servers. The ISPs responded by promoting SafetyNet, which was “a mix of self-ratings, classification, user control and public reporting plus law enforcement action” (Grossman, 1996; Arthur, 1996 cited in Wall, 2001b, p.173). Akdeniz (2001, p.122) profiles one of the earliest examples of a hotline setup for the reporting of illegal Internet content, the United Kingdom’s Internet Watch Foundation (IWF), which evolved out of the establishment of SafetyNet. Established in 1996, the hotline was supported by the UK government and was an “industry-based self-regulatory body”. It

concentrates on Usenet discussion groups and responds to information from Internet users. Content that the IWF deems “undesirable” is reported to all British ISPs for “removal of the content”, and law enforcement agencies such as the National Criminal Intelligence Service (NCIS) are notified. Though this hotline focuses only on “newsgroups carried by UK ISPs”, cooperation between new hotlines being established in other countries is anticipated (Akdeniz, 2001, p.123).

Material that is illegal or ‘objectionable’ (as defined by various jurisdictions internationally) usually differs from that which features on the sorts of websites mentioned above, though the boundary is arguably blurred at times. However, the international policing community has reached a general consensus of the status of material that features sexual abuse of children as being illegal. Many Internet users, including those who access adult pornography, also share this perception of such material. These users resent those who circulate material containing children, as the response from the wider Internet community (and non-Internet users) is to relegate all users of pornography into the category of criminals, or paedophiles. As a result of this tainting of the adult pornography business, some users of this ‘legitimate porn’ have mobilised to detect and shun those circulating in child sex abuse images, an example being Adult Sites Against Child Pornography (ASCAP), which claims to have over 700 members and represents more than 300 adult websites (Wall, 2001b, p.173). In effect, such groups bolster and support the efforts of agencies such as the CCU. As Wall (2001a) explains:

...the virtual sex-trade has played an important role in the governance of the Internet. In seeking legitimacy, the ‘adult’ sites which mainly peddle the kind of pornography that is the product of consensual acts between adults have not only coalesced in order to create economies of scale and to share trust relationships with the customers, but they have also sought actively to expose child-pornographers and eradicate them from the Internet.

(p.6)

In addition to ASCAP, there are numerous other user-groups enacting practices of Internet censorship. Ethical Hackers Against Paedophilia work to disable computers of users trading in online child pornography (Grabosky and Smith, 2001, pp.40-41),



and though they claim to work in cooperation with official enforcement agencies, they admit on their website to using “unconventional means to take down the worst, most unscrupulous criminals known” (www.ehap.org/mission.htm, cited in Wall, 2001b, p.172 – link broken). Phreakers and Hackers (UK)

Against Child Porn (PH(UK)ACP) work to “track down offensive sites and interfere with their operation” (Wall, 2001b, p.172). One of the most prominent groups involved in the monitoring and surveillance of ‘cyberspace’ is CyberAngels (Wall, 2001b, p.172; Grabosky and Smith, 1998, p.132). This group of volunteers “patrols” the Internet on the look out for a range of objectionable content, such as viruses, encouragement of terrorism and child pornography. The group comprises of over 1000 Internet users, including law enforcement officers, information technology specialists, educators, parents, librarians, technical writers and legal professionals (<http://www.cyberangels.org>, accessed 31/05/06). Groups such as CyberAngels are proponents of a high standard of ‘netiquette’ - “the collection of common rules of polite conduct that govern our use of the internet” (Wall, 2001b, p.172).

Enforcement agencies and governments have encouraged other forms of the above style of user-censorship of other users, in some cases through “appeals to patriotism and nationalism” (Kizza, 1998, p.152). Such appeals have involved requests for users to report objectionable material they come across on the Internet, in addition to asking users to refrain from using or downloading what they deem offensive materials and sometimes to even report whenever they see objectionable materials. As Wall notes that Internet users themselves “comprise the largest group of individuals...policing the Internet”, who will tend to mobilise: around specific issues in order to police websites that offend them” (Wall, 2001b, p.172).

An example of a self-regulatory system is the European Commission’s Action Plan on Safer Use of the Internet, which aims to facilitate a collaborative European network of hotlines via which users can report illegal Internet content, in addition to creating

“content-monitoring schemes” for ISPs. Akdeniz outlines the other goals of the policy including:

...the development of internationally compatible and interoperable rating and filtering schemes to protect users, and measures to increase awareness of the possibilities available among parents, teachers, children and other consumers to help these groups use the networks whilst choosing the appropriate content and exercising a reasonable amount of parental control.

(2001, p.122)

These types of self-regulation by private users of the Internet reflect concerns and issues that are also addressed by governments and enforcements through legislation. As technologies develop and evolve, so too does the legislation which governs them. United Kingdom legislation has acknowledged this problem, and has begun to address this issue:

Relatively recent legislation relating to pornography has attempted to adapt to the conditions of cyberspace as a novel medium, in that digitally created and manipulated images, phenomena that are characteristic of cyberspace are included.

(Chatterjee, 2001, p.78).

Similarly, New Zealand’s legislation was amended in 2003 to bring the penalties for child pornographies into line with the increasing seriousness of illegal activity in this area. The one year imprisonment term for producing, copying or trading child pornography was raised to two years imprisonment for possession of child pornography and ten years for producing and trading of child pornography (Department of Internal Affairs Press Release, 5/03/2003). The Minister of Justice at that time, Phil Goff, gave the following statement in regards to the increase in penalties:

“The current maximum penalties...are clearly inadequate and fail to reflect the fact that the production of child pornography involves the actual abuse of children... The rapid technological advances which now enable sexual images of children to be traded anonymously and globally at minimal cost could not have been contemplated when the current penalties were established 10 years ago. That change is graphically illustrated by data from Manchester, England, which shows that in 1995 police seized 12 child pornographic images, and

all of them were in the form of photographs or videos. Just four years later, 41,000 child porn images were seized and all but three were on computers, with almost all the images having been sourced from the Internet.”

(Department of Internal Affairs Press Release, 5/03/2003).

It is not only the Films, Videos and Publications Classification Act 1993 which is relevant to the area of censorship and regulation of objectionable material. Under section 209 of the Customs and Excise Act 1996, it is an offence to “import publications”, with ‘importation’ defined as “arrival in New Zealand by any means whatsoever, from a point outside New Zealand” (Jack, 1997, p.5). At the ‘Governance in Cyberspace’ seminar in 1997, Dr A.R. Jack, then Privacy Officer of the New Zealand Police referred to the following relevant legislation:

- (a) Section 66 of the Crimes Act 1961 makes it an offence to do an act for the purpose of aiding or inciting any person to commit an offence. This could include publishing, information on the Internet to assist people to commit crime...
- (b) Section 8 of the Summary Offences Act 1981 makes it an offence to publish a document or thing explaining how to make explosives or unlawful weapons.
- (c) Section 10 of the Misuse of Drugs Act 1975 specifically makes it an offence to aid or incite the commission of any offence against the law of another country corresponding to offence in sections 6 to 9 of the Misuse of Drugs Act 1975.

( Jack, 1997, p.6).

In order to adequately target and prosecute people producing, possessing and trading in child-pornography, the United Kingdom government amended existing legislation and introduced the Criminal Justice and Public Order Act 1994 “to take into account the new technologies, such as computers, computer data and also computer generated images” (Akdeniz, 2001, p.117). Further to this, groups of interested parties such as the Association of Chief Police Officers and the National Crime Squad together drafted a National Hi-Tech Crime Strategy and Funding Bid, the primary aim of which was to develop a “multi-agency National Hi-Tech Crime Unit supporting enhanced and nationally coordinated local activity against hi-tech crime”, which was consequently established in April 2001 (Akdeniz, 2001, p.119). Association of Chief

Police Officers (ACPO) Computer Crime Unit, in conjunction with the Internet Service Providers established a government Forum in 1997. The objective of this forum was to develop:

Good practice guidelines between Law Enforcement Agencies and the Internet Service Providers Industry, describing what information can lawfully and reasonably be provided to Law Enforcement Agencies and the procedures to be followed. Given the concern over cybercrimes and cybercriminals, it is entirely understandable that the police and the ISPs should wish to develop mutual understanding and support, and to establish working relationships (Akdeniz and Bohm, 1999).

(Akdeniz, 2001, p.119).

Disparities in penalties and definitions of illegality between different international jurisdictions create difficulty in successfully prosecuting those trading in illegal material on the Internet due to the often trans-jurisdictional nature of Internet offending. With the creation of an internationally unified legal system unlikely in the near future, research relating to law enforcement on the Internet is interested in how existing systems of enforcement can be improved and utilised effectively (Chatterjee, 2001, p.77).

Legal definitions of what precisely constitutes a crime vary internationally, and these definitions are not necessarily adequate as new technologies create opportunities for new crimes and forms of criminality. For example, 'possession' of objectionable materials has become a troubled term in cases where it has been argued that electronic possession of an image or file does not correlate to legal definitions of possession. At the Governance in Cyberspace seminar in April 1997, Dr A.R. Jack outlined a particular problem created by the Internet or mobile images for territorially based enforcement agencies. His reference was to the difficult question of what constitutes possession:

In general an act done outside New Zealand is not an offence (s.6 Crimes Act 1961). However, to be done outside New Zealand every element of the offence must occur outside New Zealand. If one element of the offence occurs in New Zealand, the offence is deemed to have occurred in New Zealand....s.123(a) of that Act [Films, etc 1993] makes it an offence to make an objectionable publication. A

person overseas who creates an objectionable image and makes it available on the Internet probably commits no crime in New Zealand. The making occurs entirely outside New Zealand and in terms of s.6 of the Crimes Act 1961 therefore does not constitute an offence. Similarly s.131 of the Films, Videos and Publications Classification Act 1993 makes it an offence to possess an objectionable publication. Again the possession occurs entirely outside New Zealand and therefore does not constitute an offence. Additionally, of course, even if the offence is deemed to have occurred in New Zealand, if the alleged offender is overseas, there is little New Zealand can do to bring the individual to account. A person who uses the Internet to deliver an objectionable publication to a person in New Zealand in contravention of s.123(f) of the Films, Videos and Publications Classification Act 1999 certainly commits an offence. However, unless that person physically visits New Zealand he or she will not be able to be brought before the Courts.

(Jack, 1997, pp.6-7).

This problem was dealt with in the New Zealand courts in October 2003, when the following case set a precedent that helped to define “possession” of electronic documents:

His defence was a legal argument about the definition of “possession”. That is, he argued that because he did not save the images he did not have possession of them...“An analogy of what ... did, would be going to a newsagent, deliberately selecting a magazine, taking it home, reading it, and then throwing it away,” Mr Manch said. “Just because you do not keep the magazine permanently does not mean that you never had possession of it. When you go onto the Internet, what you are doing is using your computer to reach out to a news group, website or other source and bring images, text and other information to your computer. When you view or work with the information you have possession and control of it.”

(Department of Internal Affairs Press Release, 31/10/2003).

The Internet also destabilises legal understandings of what is meant by a publication. In 2002, a man convicted for possessing child pornography in the form of electronic pictures on his computer attempted to appeal his conviction by “arguing, in effect, that the electronic pictures on his computer were not ‘publications’ under the Films, Videos and Publications Classification Act” (Department of Internal Affairs Press Release, 12/08/2002). However, the Gisborne High Court rejected this appeal and



upheld the prosecution by the Department of Internal Affairs. Under the Films, Videos and Publications Classification Act 1993, the definition of a publication is listed as including:

a thing (including, but limited to, a disc, or an electronic or computer file) on which is recorded or stored information that, by the use of a computer or other electronic device, is capable of being reproduced or shown as 1 or more (or a combination of 1 or more) images, representations, signs, statements, or words.

( Part 1, s2(d)).

This decision by the court was greeted with strong approval by the Department of Internal Affairs Gaming and Censorship Regulation Unit, as detailed in a Press Release by the Department following the court case:

“The Court’s ruling means that users of child pornography cannot hide from the law in cyberspace,” Mr Manch [General Manager of the Department] said. “This case is important because the argument that electronic pictures are not ‘publications’ had never been tested under this Act before and this decision establishes a precedent on what is a publication. All the Department’s Internet child pornography prosecutions have centred on possession, distribution or making electronic images. This appeal had possible implications for all of those cases and all future prosecutions...The users of child pornography must not be able to hide behind electronic cross-border trade, and the High Court has made it harder for them to do so.”

(Department of Internal Affairs Press Release, 12/08/2002).

When considering who is liable for the presence of illegal content on the Internet, it must be noted that there are a number of groups involved in the production and circulation of images, including (though limited to) the creator of the image or publication, the person who made it accessible via the Internet, the Internet Service Provider (ISP) and the person who accesses it. Generally the ISP’s – like cinemas and bookstores - are seen as holding the responsibility of monitoring the content their service facilitates. However this has proved to be neither practical or possible:

...because of the sheer volume of the traffic which they bear, not to mention considerations of privacy, scrutiny of content may lie beyond the capacity of the carrier and service provider. Carriers and

service providers are not the functional equivalent of publishers. One would not consider penalising a telephone company for the use of obscenity in a telephone conversation; it would seem equally unrealistic to hold a carrier liable for obscene imagery among the billions of items of information which they transmit.

(Grabosky and Smith, 1998, p.125).

The destabilisation of what is meant by possession, publications and responsibility for monitoring distributed content led to a complete reworking of the enforcement agencies and the establishment of the Censorship Compliance Unit.

The Internet is a site of much illegal activity – from fraud, to identity theft, to security system breaches, the ‘web’ provides endless possibilities for those with technological ability to conduct illegal business outside of the grasp of policing agencies and organisations. Censorship on the internet is similarly difficult to police, and thus is disregarded by many users, the assumed anonymity of the internet being exploited by those wishing to view and distribute obscene images.

“(Cyber)-pornography/obscenity”, as the term suggests, is the publication or trading of sexually expressive materials within cyberspace. The cyberporn/obscenity debate is very complex because pornography is not necessarily illegal. The test in the UK and many other jurisdictions is whether or not the materials are obscene and deprave the viewer, but there are considerable legal and moral differences as to what are the criteria that enable law enforcers to establish obscenity and depravity.

(Wall, 2001a, p.6).

Definitions of what is objectionable will inevitably vary between countries and cultures, leading to the same publication being freely accessible in some countries yet prohibited in others (Grabosky and Smith, 1998, p.10, 16, 119). As stated by Wall (2001a, p.6), “in Britain, for example, individuals daily consume images through the various facets of mass media that might be classed as obscene in some Middle-Eastern countries”. This is evident in the different censorship systems which exist in different countries around the world. For example, while New Zealand has a detailed age-based classification system, other countries such as Australia have broader categories, those publications which are for adults only, and those that are for everyone. Therefore,

what is considered and classified as ‘offensive’, ‘illegal’, or ‘objectionable’ is not easily categorised into a globally-applicable definition, as cultural values, beliefs and practices invariably differ in their concepts of what is acceptable and what is not:

The basic approach to overcoming the trans-national issues of digital crime lies in developing cooperation between nations. This is more easily said than done, given the significant differences in legal systems, values and priorities around the world. Enlisting the assistance of overseas authorities is not an automatic process, and often requires pre-existing agreements relating to formal mutual assistance in criminal matters.

(Grabosky and Smith, 2001, p.14).

## **6.4 Tools for Trading and Tracing**

The Internet has become a site of priority for agencies involved with the enforcement of censorship, largely in relation to policing of materials classified as objectionable. These publications are not generally submitted to the Film and Video Labelling Body or forwarded onto the Chief Censor to receive a classification – instead they are traded and trafficked illegally across the Internet, circulated from producers to various distributors and ‘users’. These materials are classified as objectionable under the Films, Videos and Publications Classification Act 1993.

Instead of policing physical sites of classification enforcement such as video stores and libraries, the focus of work for the Censorship Compliance Unit has shifted to the comparatively unbounded realm of the Internet. In 1997, the Department of Internal Affairs estimated the amount of their resources focused on Internet offences to be 60% (Bain, The Dominion Post, 3/07/97). The exponential growth of the Internet over the last decade has seen a dramatic increase in the circulation of objectionable materials, as technology-savvy offenders use the virtual space of the web to bypass borders and systems of surveillance such as Customs Officials. Their actions have, in turn, provoked a range of actions by the New Zealand Censorship Compliance Unit (CCU). The CCU monitors the Internet for images of objectionable nature by accessing various sites of user exchange of information, such as peer-to-peer systems,

Internet Relay Chat (IRC) channels, websites, bulletin boards and newsgroups (Carr, 2004, p.12).

An example of monitoring actioned by the CCU is that which is carried out in relation to peer-to-peer or file sharing applications. File sharing applications are an avenue frequently utilised by traders of objectionable publications to distribute and circulate materials. In order to access such systems, software is downloaded onto the computer, which allows users to then download files selected through browsing the material made available by others. Peer-to-peer systems generally rely on a number of interested parties/users to operate efficiently, as the networks consist of “peer nodes” which are designed to function “as both ‘clients’ and ‘servers’ to other nodes on the network” ([http://en.wikipedia.org/wiki/Peer\\_to\\_peer](http://en.wikipedia.org/wiki/Peer_to_peer), accessed 15/05/06). This dispersal of the file being shared through the decentralisation of a ‘host’, in addition to increasing the speed and quality of the network, also reduces potential for policing agencies to target and prosecute a single user:



Decentralisation [has] been pushed as a means of overcoming the threats posed to a centralised network, either by legal disputes or hostile users. A decentralised network has no body to attack... ([http://en.wikipedia.org/wiki/File\\_sharing](http://en.wikipedia.org/wiki/File_sharing), accessed 15/05/06).

However, a more common method of circulation of objectionable material, and hence a target for enforcement agencies, is Internet Relay Chat (IRC):

Internet Relay Chat (IRC) is a form of instant communication over the Internet. It is mainly designed for group (Many-to-many) communication in discussion forums called *channels*, but also allows one-to-one communication...Users can *join* to channels (using the command */join #channelname*) and then send messages to it, which are then relayed to all other users in the same channel. (<http://en.wikipedia.org/wiki/IRC>, accessed 15/05/06).

*Relay chat was the thing initially. Relay chat, and we would sort of go online and get information about who was in the different chat rooms and what they were up to. And they were trading pictures of child pornography and stuff, and that's when it really sort of took off. The method of offending has changed since then. Going through more sorts of peer-to-peer applications, shareazzar, imesh, and kazaar, crocster, those sorts of programmes...*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

IRC allows people to have conversations and share files with a degree of anonymity, and find people with similar interests. Chat rooms are often established by subject or category of interest, and therefore collectors of objectionable images will congregate in designated channels to share and swap files. It is these rooms that agencies such as the CCU target through entering undercover as users wishing to exchange material, in order to engage with individuals and by doing so identify potential offenders for prosecution.

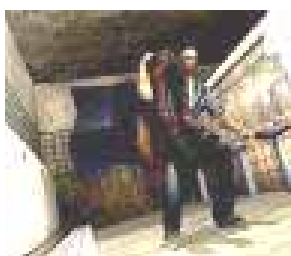
Another example of sites of monitoring by the CCU include Internet auction sites such as TradeMe. These become potential sites for the breach of censorship regulations as users attempt to distribute illegal material via the online auctions. The terms and conditions of the site prohibit the sale of such items as follows:

You must not sell illegal, offensive (including anything of a defamatory, pornographic, or racially or ethnically objectionable nature), stolen, or unsafe items, items which infringe copyright or other intellectual property rights, items which have been illegally imported or which would require illegal import or export in order to complete the transaction, or any item of which the sale is prohibited by, or violates any, law. You are responsible for ensuring that any item listed by you does not breach this clause 4.2(d). You agree that Trade Me may disclose your personal information, including your name and contact details, to the relevant authorities, parties and/or the applicable intellectual property right holders (or their representatives) if we consider that you are in breach of this clause 4.2(d) at any time.

([http://www.trademe.co.nz/Help/Topic.aspx?help\\_id=143](http://www.trademe.co.nz/Help/Topic.aspx?help_id=143), accessed 28/10/05).

However, despite the clear statement of the prohibition of selling illegal materials, users still occasionally run auctions on banned publications. A recent publication to

have been circulated in this manner is the video game *Manhunt*, which was classified as objectionable by the Office of Film and Literature Classification in November 2004 for its explicit violent content:



*Manhunt's been banned, it's always been, but we're still picking copies of that up off Trade Me and places like that. Obviously, because publications include electronic publications, we monitor the Internet and that's where all our work, or almost all, our work comes from. These days, it is the Internet chat rooms, peer-to-peer applications. We have accounts on Trade Me and we see what goes through. People advertise Manhunt or [similar items], and we'll contact them, usually electronically because that's the easiest way, and just say, "this is objectionable, you've got to hand this in. If you don't, then we'll come looking for it". I've done a couple of search warrants. It's waste of time. It's annoying when you get some pimply kid that thinks that they're anonymous on the web because they're calling themselves, you know, "skaterdude" or something, and they come online and "I've got Manhunt, it's really cool, it's a bit illegal, but you know, I'll let you have it for 90 bucks" or something. We contact them and say, "you know this is not [allowed], you've got to hand it in" and they go "yeah right". Then you see them advertising under a different user name or something. We'll go to Trade Me and requisition accounts and things like that, and if you find out it's the same person, I think Trade Me normally keeps an address, we'll go to that address with a search warrant. Because it's objectionable, we can get a search warrant for it and go to the address to get it off them.*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

Technology is constantly changing and evolving as developments both introduce new artefacts into an increasingly high-tech and digital world, and also change the way we view and use exiting technology and how the governing systems and legislation administer their day-to-day use. Chatterjee argues that such changes necessarily require adaptation by enforcement agencies in order to retain any degree of relevance:

My point is that what we are seeing, and how we see it, has changed considerably with the advent of cyberspace. For law, this lack of critical awareness and issues of definition may well prove problematic, as its nineteenth-century attitudes become increasingly unrealistic.

(Chatterjee, 2001, p.79).

If the CCU comes across material with links to New Zealand, be it produced in New Zealand or traded by New Zealanders, the CCU Inspectors will monitor the material and take steps to apprehend those parties involved in the production and distribution of the images. The method by which this is carried out signals a key shift in the strategies of censorship enforcement which differs from previous sites. In order to track and trace censorship classification offenders on the Internet, the CCU utilises the presence of ‘undercover’ officers in online chatrooms, and is open about this practice. This was highlighted in the interview with the CCU, where it was plainly stated:

*I mean, there's no point in trying to hide that fact. It's the only way you catch people.*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

This is a method of detection and apprehension practiced by other enforcement agencies, such as the American Federal Bureau of Investigation, in order to allow the gathering of “tactical intelligence about illegal activity, in addition to obtaining information for use as evidence in criminal prosecutions” (Grabosky and Smith, 1998, p.131). An example of a successful prosecution arising from this undercover activity occurred in February 2003:

A Palmerston North man...boasted that he could hide his child pornography trading on the Internet, conceal files and avoid detection. What... did not realise was that he was boasting to a

Department of Internal Affairs Inspector who was monitoring the Internet child pornography channel they were communicating through.

(Department of Internal Affairs Press Release, 5/02/2003).

In the case of the Internet then, censorship moved from the inspection of the activities of indirect agents such as cinemas and bookstores to the direct policing of activities that breach the censorship legislation.

## 6.5 Resistance to Tracking and Tracing

The Internet provides a forum for users to exchange information. While these exchanges can be tracked and traced, they can also be hidden by users wishing to elude detection. There is an ongoing struggle between censorship enforcement and policing agencies who are delegated the duty of monitoring content of the Internet and information exchanges, and users who develop methods to covertly continue trading in 'objectionable' material.

There are numerous techniques by which users and circulators of objectionable material seek to circumvent the policing efforts of censorship enforcement agencies. These include the 'looping' or 'weaving' of identity "through multiple sites" (Grabosky and Smith, 1998, p.8), construction of false names and identities (Surratt, 1998, p.3) and anonymous re-mailers (Kizza, 1998, p.47). Ellison (2001) outlines a specific characteristic of Computer-mediated communication (CMC) - the potential the Internet offers for "pseudonymity":

Pseudonymity on the Internet can be achieved by simply forging or "spoofing" an e-mail header so as to create an on-line digital persona, while many ISPs and on-line service providers allow their users to adopt pseudonyms as their user ID...It is for the user to decide what information she or he will not reveal in Internet communications...researchers of human behaviour on CMC systems observe that identity manipulation is commonplace in CMC...The comparative anonymity or pseudonymity of CMCs, it is claimed, means that users tend to be less inhibited in their on-line interactions with others (Kiesler *et al.*, 1984).

(Ellison, 2001, p.143).



There are two primary perceptions people who are not overly familiar with the workings of the Internet develop in relation to provision of anonymity, or lack thereof. People may believe that because they are accessing the Internet from the privacy of their home or through a personal computer, and using a pseudonym, that they are completely anonymous and untraceable (<http://en.wikipedia.org/wiki/Anonymity>, accessed 19/01/06). They have uninhibited freedom to say anything they like, access and post images and publications, and correspond with others without concern of their on-line actions impacting upon their off-line lives.

At the other end of the scale, there are those who believe that authorities track all on-line activity with ease and concern over each person's every Internet movement:

*A lot of people think we somehow manage to sit and monitor everything that goes on the Internet: "Oh, last night I went to this site, accidentally, I don't know how it happened, I accidentally got to this site and there was some bestiality on it ...I've got it off my computer now, but, I just want to know - you guys aren't going to come round and knock on my door, are you?" "Well, not today, no, we're not going to."*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

Though not necessarily illegal, many 'adult' websites contain material that the creators of the sites themselves consider to be not suitable for children, and most carry out some form of self-censorship or regulation. Many of these sites contain entry WebPages, which alert potential users to the requirement of being 18 years of age or over to enter the site. They include phrases such as:



"This Website contains explicit sexual material which may be offensive to some viewers. You must be 18 years or older to enter this Website. By going beyond this point, you acknowledge that you are 18 years or older"

(<http://www.thugsandjuggs.com/>, accessed 6/05/2006)



However, this is arguably somewhat of an arbitrary attempt to police those who access such websites, as there is nothing preventing an underage person clicking the 'enter here' button. Some websites charge users to view their material, and thus require the provision of a credit card number. This potentially limits the ability of young Internet users to access the sites, as it is unlikely that many children are holders of credit cards (though that is not to say they cannot simply use their parent's card).

## 6.6 Detection

Developments and advances in technology have enhanced user's ability to carry out illegal or criminalised activities such as circulation of child sex-abuse images, by increased technical ability to prevent detection. Grabosky and Smith highlight the challenges to effective policing this creates for censorship enforcement agencies, noting that:

...detection may be difficult, particularly when the communication is essentially private and consensual, and the parties motivated to avoid public or official attention. Suffice it to say that those who use the Internet for illicit or illegal activities of the more serious kind...often employ the tightest security measure in order to prevent identification and access by authorities.

(1998, p.126).

Research carried out by the Department of Internal Affairs in 2004 regarding censorship offenders in New Zealand (Carr, 2004) concluded that of the 105 offenders included in the project, 71 were detected "as a result of trading objectionable material on the Internet" (p.37). Other government agencies, including the New Zealand Customs Service, the New Zealand Police, the Norwegian Police Force, the Australian Police Force (Victoria), the United States Customs Service and the German Police Force, were also acknowledged for their success in detecting offenders. Carr also outlines other methods by which the offenders were detected:

"... detection included identification of offenders by way of the following means:

- information provided by a computer repair shop
- a web site posting to a discussion group in E-circles

- from another offender's letters and documents
- collaboration between the Department of Internal Affairs and the New Zealand Customs Service in response to a Customs search warrant regarding importation
- a bulletin board
- a subscription to a New Plymouth club which swapped objectionable video recordings
- as a result of a computer company finding child pornography on a trade-in PC
- participation in a private circle on a web site making material available
- discussion on Internet Relay Chat with a UK police officer about the manufacture of child pornography

In addition, two offenders were caught after advertising in a trade newspaper, and one other was identified by the staff of the university in which he was employed. Ten offenders were apprehended as a result of more than one method of detection."

(Carr, 2004, p.37).

As the above list shows, a variety of networks (of state agencies and of informal associations) are incorporated in the process of tracking and tracing individual offenders in breach of censorship legislation. However, these agencies continue to combat the steps taken by those involved in illegal internet activity to prevent the censors from successfully detecting them (Grabosky and Smith, 1998, p.133). These challenges put up by users may involve manipulation of digital information, such as false addresses (both postal and electronic) or false user ID's as decoys. The aim of such practices is outlined by Denning (1999, as cited in Grabosky and Smith 1998), who notes:

technologies of encryption...can limit access by law enforcement personnel to communications carried out in furtherance of a conspiracy, or to the dissemination of objectionable materials between consenting parties.

(p.35).

Despite use of user nicknames or 'handles' to hide a user's identity, some technical elements of Computer-Mediated Communication (CMC) are potentially able to be used by enforcement agencies to track users partaking in offensive or illegal activities. Internet Protocol is the 'language' used by computers to communicate, and each computer in a network has an IP address. This address can be logged and tracked by

administrators or enforcement agencies to expose the ‘real world’ identity of the user, though barriers can be thrown up by experienced users to prevent this monitoring (<http://en.wikipedia.org/wiki/Anonymity>, accessed 19/01/06). Once users have been traced and identified, search warrants are executed to seize the objectionable material in question.

The volume of work that the Internet has created for agencies such as the CCU is enormous. Over the eight-year period from July 1996 to January 2003, the CCU investigated over 500 cases “involving possession or supply of objectionable material...[which] resulted in 103 convictions with approximately 25 cases still before the courts” (Carr, 2004, p.12). For this reason, other duties previously carried out on a regular basis by the unit, such as checks on cinemas and other businesses regarding the enforcement of restricted classifications, are no longer a priority, and have been relegated to the bottom of the unit’s ‘to-do’ list:

*The main thrust of the department is minimisation of harm from the availability of objectionable material, specifically child pornography. As you can imagine, there are a few harms involved there, apart from the fact that actual children get abused in making it. It also promotes and supports the idea that children are sexual objects, and it’s fairly widely known to be both used in grooming children for sexual abuse, and as titillatory and masturbatory material by people who are either thinking that way or are already there in terms of physical abuse. Or to meet the needs of people who are not perhaps yet physical abusers but have a penchant for children. That’s where probably at least 85% of our time or our work is, in this office anyway.*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

The change in priorities is also due to the dramatic difference in the significance and urgency of the types of duties – general consensus within the Department is that the more valuable use of resources and energy is in the attempts to control and eradicate child sex abuse images, rather than making sure cinema operators ask people for identification. Businesses involved in restricted classifications have also become largely self-regulating, a process which the CCU relies on in order that they only need get involved in this area when absolutely necessary, allowing them to focus on the

more pressing matters surrounding Internet censorship (Interview with Censorship Compliance Unit, 14/10/2005).

Bulletin boards were the initial point of focus when the CCU turned their attention to policing the Internet. In discussion of the rise of questionable and illegal Internet activity, the CCU notes that their involvement started:

*...kind of before the Web became what people recognise as the web now. I mean, the web is still there, but you wouldn't recognise it as 'the web', it was just on [a network] like they've got at university, and people talked to each other on the [opposite] sides of the world. At that stage, universities had internet, and it was news groups and things like that. If you had a computer at home, you would dial up a bulletin board, and you would have access to the bulletin board, which was where people posted messages and had files. People would have directories of files that you could look through, sometimes games you could play, all that sort of thing. And those were the places where you would get pornography, bomb making recipes, things like that, and the bulletin board would be run by some guy who didn't really care how old people were who came along. And so you would get Mum who had suddenly found that her 12 year old had printouts of naked ladies and bomb recipes and things that she found under his mattress or something. And it would have down the bottom "so and so's Bps" or something, so we'd get to investigate that. Then very shortly after, the internet kind of 'exploded' if you like.*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

While the internet contains numerous examples of objectionable materials, such as violence, instructions for bomb making (Grabosky and Smith, 1998, p.31), and sexually explicit material of various extremes (bestiality, necrophilia), it is the presence and prominence of sexual images involving children which is of most concern to internet regulatory agencies and censorship enforcement officials such as the Censorship Compliance Unit of the Department of Internal Affairs. In 2004 the use of the term 'pornography' was discarded in order to both avoid confusion with consensual adult sexual activity and to highlight that the child in the illegal images is

being sexually abused and exploited in the production of such images (Department of Internal Affairs Press Release, 25/03/2004)<sup>9</sup>.

Whether or not the images are produced in New Zealand, the CCU is dedicated to prosecuting and eliminating them, not only for the sake of the children in the images, which may exist on the Internet for years after the event, but also for other children. In 2002, the General Manager of the Department of Internal Affairs' Gaming and Censorship Regulation Unit noted that:

[Child pornography] debases children by portraying them as sexual objects that can be used as desired by adults and reinforces the false view held by some that sex with children is acceptable.

(Department of Internal Affairs Press Release, 19/07/2002).

The kinds of images the unit encounters vary from children in sexualised positions to the performing of sexual acts, and accounts of the types of pictures make difficult reading, let alone the constant viewing of images that Inspectors must endure in the process of tracking those responsible for production and circulation. Yet this can reinforce the determination to utilise all resources available and apprehend not only those producing the images, but also those who are using them and thereby creating the market for them (Department of Internal Affairs Press Release, 5/03/2003).

When reading through the numerous press releases that detail cases dealt with by the CCU, the sheer volume of objectionable material seized in the course of each case seems overwhelming:

The computer contained more than 9,000 sexually explicit images and movies, including 182 objectionable pictures and movies involving child pornography, bestiality and urination.

(Department of Internal Affairs Press Release, 19/07/2002).

In this case...had a collection of more than 58,000 sexual images on three computers and many CDs. Of these images, more than 2,700 were objectionable, being of children aged between 4 and 15 being sexually abused by adults and in sexually explicit poses.

(Department of Internal Affairs Press Release, 23/07/2002).

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<sup>9</sup> However some material referenced in this chapter was written prior to this change or is sourced from international authors, and therefore does include terms such as 'child pornography'.

The New Zealand system of censorship enforcement in relation to the Internet differs from the systems of most other countries, in that the legislation under which it operates, the Films, Videos and Publications Classification Act 1993, covers all aspects of the censorship process (that is, classifying, labelling, and enforcement). In other countries crimes related to illegal pornography and similar materials are dealt with by “general law enforcement agencies, commonly the Police” under criminal law, and often result in “investigation of such offences being given a low priority” (Carr, 2004, p.12). Due to the specialised nature of the New Zealand Censorship Compliance Unit, this unit has developed a comprehensive system of knowledge and skill. In research into the functions of the unit conducted in 2004 by the Department of Internal Affairs, Carr (2004) argues the following:

Because the CCU investigates a relatively narrow range of offences, it is better placed than many general law enforcement agencies to develop specialist skills in detecting and investigating offenders and in gathering specialist intelligence regarding the nature of these offences. This intelligence has the potential to provide valuable insight into offender behaviour, possibly contributing to increased efficiency in investigation, prosecution and treatment as well as providing a sound empirical base on which to develop censorship policy.

(p.12).

This approach by the New Zealand Censorship authorities differs from a traditional approach to policing involving a dispersal of agency through a number of actors. This agency is discussed by Wall (1997, cited in Wall, 2001b, p.177). He explores the questions surrounding whether there is need to create a “specialist police unit” in the United Kingdom or if the police force “should integrate the policing of cyberspace within their ‘regular’ functions”. Among his arguments for integration is the suggestion that the public police force operates under existing “structures of accountability, especially with regard to due process” (Wall, 2001b, p.177). However, Wall also presents an (arguably more convincing) argument for the creation of a specialised unit to police the Internet, including the point that “the resources made available to the police are finite and are likely to remain so for the foreseeable future” (2001b, p.177). In April 2001, the National High Tech Crime Unit (NHTCU) was established “to deal with technology related crimes that run across conventional police

boundaries and require specialist investigation skills”, particularly in relation to crimes that would impact upon the UK (<http://www.met.police.uk/computercrime/>, accessed 31/01/06; [http://www.nhtcu.org/nqcontent.cfm?a\\_id=12261](http://www.nhtcu.org/nqcontent.cfm?a_id=12261), accessed 31/01/06). Recognition of the different enforcement regime in New Zealand is commented upon by an office of the Censorship Compliance Unit:

*We're somewhat unusual in terms of enforcement agencies around the world in that respect, and I think it's a real bonus for us. Most [agencies], including the New Zealand police, have the investigating officer, so they'll get the complaint, work up the case, perhaps go and seize the computer or computers, send them off to their crime lab. Their crime guy gets a report from the investigating officer, does his thing, sends it back. The officer looks at it, goes, "What's this? I wanted to know the other thing". So he sends back, "Can you tell me about such and such, I need to know this, I need to know that, and do a search for this, because I think he might have used that in relation to the crime". They do another analysis, send it back, and he uses that to put together his report. That goes off to their prosecution section who looks at that and says, "No, there's not enough to prosecute". He gets frustrated, [the other guy] gets frustrated, and at the end the bad guy sort of gets a slap on the wrist with a wet bus ticket. Now I'm not saying that's necessarily the New Zealand police, but in a lot of situations that happens where the investigator, the crime lab, and the prosecutor are separate bodies. You always get breakdowns of communication, unsatisfactory results as a result of that splitting up.*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

The Censorship Compliance Unit reaffirms this idea of a different New Zealand approach through the assemblage of the (relatively) new, specialised, censorship agency:

*We often generate our own inquiry, investigate that inquiry, put together the search warrant, execute the search warrant, seize the material, examine the material, put together the prosecution file and take it to the Crown solicitor ourselves. Which means that the same officer that perhaps received the initial complaint or got the initial information and did the search warrant and seized the goods also did the examination of the equipment and is in a better, the best position, I think, to examine the computer. There's a lot of things you can never get in the report, you think of little connections that you*



*make between one thing and another that are really beneficial in looking at this kind of offending. And you build up a picture, you've met the person, you've seen their home, you've done a little bit of investigating before that, you know if they've got a police record or anything else, you've spoken to them, you've spoken to their family members, you've examined their computer, you get a real feel for the person. You kind of get sort of inside their head a little bit, in terms of what their preferences are, how they have things organised, all that sort of thing. And that, I think, puts us in a better position to make judgement calls on things like whether or not to allow for a diversion or to prosecute at all, or whether the person is a genuinely serious offender or not. Whether it's, you know, whether we've got everything we need to have. I'm aware of cases where officers have gone out to investigate a situation and have seized a computer but have left behind thumb drives, or a digital camera, or a PDA or a cell phone. Cell phones are now capable of containing, you know, apart from evidence of committing an offence, offensive material themselves. X-Box's can store data, so you can put all your files into an X-Box and somebody might not even look at it, or might look at it and say, "ok, it's got a game in it, we don't want that". Whereas because we deal in the examination of forensic data and have training in that field, we are aware of these sort of things like pen-drives, and wristwatch USB devices and things like. So when you go into a place you can look at the scene and go, "ok, we want that, that, that, that, we want that, we want to take that box of CD's over there which are obviously ripped because the computer over here's got a CD writer in it, we want those DVDs" and that sort of thing. And I think that puts us in a better position too, in terms of the prosecution, rather than making an arbitrary decision about whether everyone gets prosecuted, because that's what's done, or "this person gets prosecuted, this person doesn't" - there doesn't really seem to be too much rhyme or reason in it. I think we're in a better*

*position to make those calls if you look at this sort of thing more holistically.*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

As this interview highlights, the attention to detail the specialised focus of the Censorship Compliance Unit has allowed its Inspectors to develop finely tuned skills through a concentration of resources and training relating specifically to the challenges of regulating Internet content. Internationally, the unit is highly regarded and noted for being "one of the very few dedicated censorship compliance units in the world" (Department of Internal Affairs Press Release, 21/10/2003).

## 6.7 Local Policing and International Co-operation

There are two key components of the method by which enforcement agencies such as the Censorship Compliance Unit polices and regulates the circulation and distribution of objectionable images on the Internet. The first of these is the incorporation of ‘undercover’ tactics in order to track and trace publications and users who are in breach of censorship laws. The second key component is the international co-operation between local policing agencies, which compliments and strengthens the impact of the undercover tactics.

Though some authors argue that “given that cyberspace has no boundaries” (Grabosky and Smith, 2001, p.30) it cannot be successfully policed, this chapter has detailed the ways in which this can and is being done currently both by official and user-based groups. Though the developments in technology have expanded the scale of illegal trafficking of objectionable publications, they have also facilitated the co-operation of these groups.

As the technology allowing criminal activity to occur develops, law enforcers keep abreast of the new developments:

This will entail training in new investigative techniques. As new technologies are exploited by criminals, it becomes even more important for law enforcement not to be left behind...The collaboration of law enforcement with specialised expertise residing in the private sector will be a common feature in years to come... it will be important for public sector managers to develop close ties with law enforcement, to report suspected illegality to them, as well as to provide them with assistance when required. The police, and the institutions which they serve in both public and private sectors, should be familiar with each other’s needs.

(Grabosky and Smith, 2001, p.41).

Such examples of enforcement agencies utilising new technology in response to the new types of crime are seen in the increased ability of police to both track offenders by following the “electronic tail” they leave behind (Department of Internal Affairs

Press Release, 9/1/2003) and share information with other censorship and law officials:

A satellite video link has been used to allow Norwegian National Police to give evidence from Oslo to the Auckland District Court. The evidence contributed to the imprisonment today of Internet child pornography trader, Auckland man ...the Court sat at the Auckland University of Technology in May for the international videoconference... "Courts had never used this technology in a case taken by the Department before," Mr Manch said. "It proved very useful and we would happily use it again where appropriate. It is a good example that while new communications technology can help offenders, it also helps law enforcement agencies".

(Department of Internal Affairs Press Release, 31/07/2003).

The new local practices of Internet offending have created a strong relationship between many international policing agencies and law enforcers. Grabosky and Smith note that "the control of cybercrime lies beyond the capacity of any one agency" (2001, p.39).

*...we get a lot of information through overseas agencies, the Federal Police in Australia, the Federal Police in Germany, Federal Police in the US or now the Army Securities Office...and in the UK, both the London Met and the GMP, that's the Greater Manchester Police. We've had a number of files from them, and also send files overseas. As you'll probably appreciate, the Internet is a global sort of phenomenon, there's no real boundary. I mean, I can talk to you; next door I can just as easily talk to someone on the other side of the world. So it's a bit silly having sort of a boundary around New Zealand and saying, "well that's where it stops", because of course it doesn't. We work very closely with customs and the police. And overseas agencies in general, mostly through Interpol, but also directly. We've all been on various overseas courses or seminars and met up with people in different organisations overseas. I've had good international liaisons one to one with people. I've worked with the head of the Toronto Police sex crimes unit and in the Greater Manchester Police the guy who's responsible for the electronic crime unit there and things like that. Those kinds of connections are really useful to have. If you've got something, and you know it is somewhere in the UK, you can say, "well look, I've got this, who would I be best speaking to?" and they'll say "oh talk to so-and-so, because although he's not the official bod, he does actually do the*

*work, or he knows the most about what's going on". So you get to talk to him, and that makes things a lot easier.*

*- Interview with Censorship Compliance Unit, 14/10/2005.*

Wall refers to these types of developments as the emergence of a new form of trans-jurisdictionality for the regulation of objectionable material:

The trans-jurisdictional nature of cyber-crimes creates many problems for the enforcement of law... Typically, policing strategies are often reduced to decisions that are made at a very local level about the most efficient expenditure of finite resources. Such decisions become complicated where different jurisdictions cover the location of the offence committed, the offender, victim and impact of the offence. Furthermore, this trans-jurisdictional issue can be complicated by confusion over whether or not some of the harms fall under civil or criminal laws, which can vary across jurisdictions.

(Wall, 2001a, p.9).

Grabosky and Smith (2001) argue that the costs (both in resources and finances) involved in “extraterritorial law enforcement” are so great that they deter pursuit of “all but the most serious offending” (p.38), and suggest that international cooperation between law enforcement agencies is often minimal due to cultural and political differences in values and priorities. However, the CCU in New Zealand claim that international relationships are highly valued and have proved crucial to successful policing of the Internet in the past. Evidence of this is provided for by a specific case where connections between the local Christchurch office and the police in the United Kingdom resulted in the arrest of a person molesting a child and circulating images of the abuse across the Internet:

*He told the story of how they'd seized a series of pictures from a New Zealand offender's computer, that looked different from things they'd seen before, or looked similar to something they'd seen somewhere else. Contact was made with police in the United Kingdom to whom the images were then sent. The image was sent to district police stations, with the child's face blocked out. One station recognised a bridge in the background of one of the pictures, and so the focus was shifted to a particular area. Then another station recognised a park in the background of one of the other pictures, so they had a very small area to focus on. The child's face was lifted*

*from the picture, and circulated around local schools. The child was located, and it was discovered that the offending had been going on for sometime, and that offender was a friend of the child's parents, who looked after the child. The parents had no idea this was happening. So seizing pictures in New Zealand, through global connections, led to arrest of a child molester in United Kingdom.*  
*- Notes from interview with Censorship Compliance Unit, 14/10/2005, case detailed in Department Press Release 14/07/2003.*

This particular case highlights the method of tracking by disassembling the image. In 2002, the Censorship Compliance Unit Manager highlighted the success of the development of international relationships between censorship enforcers:

Child pornographers should realise that they are not safe from identification on-line and prosecution. We –and agencies in other countries – are proactively seeking people who exploit and abuse children in this way. While the trading of child porn has become easier as a result of the Internet – so has international cooperation by policing agencies.

(Department of Internal Affairs Press Release, 22/01/2002).

## 6.8 Conclusion

Policing and regulation of Internet content is a high priority for enforcement agencies such as the New Zealand Censorship Compliance Unit. The problematic nature of such enforcement has been widely researched and documented, predominantly focusing on the specific challenges the Internet creates for censorship ((Ellison, 2001; Kizza, 1998; Grabosky and Smith, 2001). Problems highlighted include the international scope of Internet traffic, the specialised training and skill required for policing agencies, the technical components of the Internet, the sophisticated practices of users to hide their activities, and the mass of illegal information being circulated on the Internet.

However, this chapter has highlighted how various groups work to overcome these problems and make the systems and processes of policing and monitoring the Internet effective. It has focused on the various practices associated with censorship enforcement in relation to the Internet, and discussed the significance of the way local

bodies co-operate. As detailed above, the utilisation of undercover practices is key to tracking the distribution and possession of illegal materials, as is the international level of co-operation between local enforcement agencies, given the international scope of Internet offending. The chapter has also shown that the practices used both to distribute objectionable material and to police it are constantly evolving, primarily in response to the rapid changes of the technology through which these practices operate. It has discussed the ways in which legislative changes have occurred in response to these technological developments. As the above discussion shows, there *are* means by which censorship enforcement can successfully operate in relation to Internet content. As argued by Walker, et al:

Legend has likened the Internet to a wild west frontier, others have seen it as a public space: 'a forum without gatekeepers'. But this is simply not true – if it ever was a wild west frontier, then it has quickly been tamed.

(2000, p.6).

## **7. Conclusion**

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Classification is an integral part of everyday life. As noted by Bowker and Star, everyday life is hinged “round with systems of classification, limned by standard formats, prescriptions and objects” (1999, p.1). The thesis has documented how censorship classification is practiced at different sites ranging from the cinema to the Internet. It has paid particular attention to how different methods and strategies have been developed in response to the variety of publications subject to restrictions.

Bowker and Star suggest that, for the most part, “large-scale classification systems are often invisible, erased by their naturalisation into the routines of life” (1999, p.47). The New Zealand Censorship Classification system is arguably ‘large’ and well established and, its degree of invisibility to the public is as Bowker and Star suggest a matter of naturalisation. This process of naturalisation manifests itself as a lack of knowledge and awareness of the classification criteria. The thesis has documented how naturalisation leads to attempts to raise awareness of the meanings and implications of the classifications by those charged with enforcing them. It has shown how their attempts involve both delegation and education of users of classified publication and in turn, how these attempts increase their potential to enforce and police classification. The thesis has documented how censorship practices have developed to cover ‘new’ media and how varying systems of classification have been employed at different times.

The research focus for the thesis was developed by starting with a point of personal interest and exploring the topic to identify areas that were not well covered in the

literature. Using personal knowledge and experience, I refined points of potential inquiry relating to signage, spatial design and questioning of customer. Over the course of the research these points of inquiry were extended to other sites. In order to follow how the different sites were organised to perform censorship, I drew on both personal connections with acquaintances involved in the cinema, bookstore and video store industries and formal interviews with censorship officials. Connections and interviews allowed me to follow the day-to-day workings of the agencies and delegates of censorship classification enforcement. Following also allowed me to highlight the strengths and weaknesses of the various sites and strategies involved.

The process of establishing a censorship classification system in New Zealand has resulted in the construction of numerous categories of media (and persons) which legally govern the display of images, texts and sounds at different sites of retail and entertainment. The process of policing this system is, however, inconsistent. As Latour might put it, censorship practices enrol publics in an inconsistent manner (Johnson, 1988).

Upon reflection, I conclude that censorship classification enforcement is most visible and effective at those sites where it serves a direct or overt purpose or interest. In cases such as the cinema and the video store, where the film censorship classification system has been entrenched for some time, and where restricted publications are frequently available, systems of enforcement for the policing and monitoring of patron's access to restricted publications are 'naturalised'. They are an everyday part of the business. They are viewed by staff to be of importance in order for the site to continue to operate by avoiding fines or legal consequences for failing to uphold the Office of Film and Literature Classification's decrees. However, as documented in the thesis, there is arguably a difference in perception of this importance between management and lower-level staff.

The thesis has also documented how objects of classification significantly impact upon the way they are administered and consumed. As these objects become increasingly mobile, such as portable video consoles and cell phones which also



record and play video footage, the degree to which the classifications can comprehensively be enforced declines. This failure to enforce increases when such objects move out of the realm of public consumption, such as the video store or library, into the private sphere of the home at which point access to restricted publications is neither built into the architecture of sites nor overseen by any official delegates of censorship classification enforcement. However the thesis also documents how new censorship practices have arisen to cope with the personal or private spaces of the Internet. Following the policing of the new media associated with the Internet – chat rooms, peer-to-peer file sharing – it was concluded that not only have censorship practices shifted from delegation and inspection to active policing but they have also extended in scale to make direct links between the agencies of different countries.

The resistances that designers and users encounter will change the ubiquitous networks of classification and standards. Although convergence may appear at times to create an inescapable cycle of feedback and verification, the very multiplicity of people, things and processes involved means that they are never locked in for all time.

(Bowker & Star, 1999, p.49).

The material presented on censorship enforcement of the Internet, both the practices used to police and regulate content and the methods employed to subvert that surveillance, revealed how practices of surveillance and illegal activity are constantly evolving. As users respond to systems of monitoring in unanticipated ways, enforcement delegates re-assess their systems of control to address the new challenges. In this respect the regulation of the internet is no different from the cinema or the bookstore.

In the process of constructing the thesis, I have discovered many potential points for further research. While unfortunately these were beyond the scope of the thesis, the questions and issues raised indicate the potential direction for on-going research. An element of the censorship classification system which would be of key significance to

further research is extending the scale of the network under analysis. This would involve tracking the path of the object through the process of being classified prior to the enforcement of that classification. Such research would involve elaborating upon the 'order of worth' (Boltanski & Thevenot, 1999) represented by the various groups involved. This examination of relationships both to the objects under classification themselves as well as to other groups would allow a reworking of more conventional 'moral' accounts of censorship regulation. In addition, following how censorship decisions are actually made would also provide for a further reworking of censorship 'studies'.

Acknowledging the constraints of a Masters thesis, the research presented in this thesis chose to highlight the processes and workings of the New Zealand censorship classification system by examining the day-to-day workings and practices of the delegates who are charged with the policing of this system. It was shown how censorship practices as work varied in relation to the objects under consideration.

The possibilities for future methods of censorship classification enforcement cannot be known at this point in time. Nevertheless, it seems likely that the work of policing will continue to combine both the delegation of mundane tasks to service personnel in sites such as cinemas, book and video stores and the operation of teams of censorship 'detectives' tracking the new technologies of the Internet. This range of censorship practices could not have been foreseen by the early twentieth century architects of the New Zealand censorship laws. The portrayal of them in this thesis is testimony to the way in which the question of censorship of images or substantive content is not separate from the mediations made possible by constantly evolving technologies.

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## **Appendix 1: Censor for a Day 2006**

In researching information about the Office of Film and Literature Classification for my thesis, I came across mention of the ‘Censor for a Day’ programme run by the Office, aimed at high school students. The idea of the day is that it gives students a chance to gain insight into the way a film is censored and classified. I found this to be an intriguing concept, the meeting and interaction between the group who makes the censorship decisions and the group(s) that are the primary subject/victims of the decisions.

Through my workplace (a local cinema), I discovered that this year part of the programme would be held in Christchurch, and so I emailed the Information Unit at the Office, seeking further details as to what the day would entail, and whether it would be possible for me to attend. That same day I received an informative and positive reply from the Office, outlining the day’s programme and informing me that I was welcome to attend.

This year’s ‘Censor for a Day’ was held, amongst other locations, at a cinema complex in Christchurch, on April 5. Upon arriving at the cinema, there were numerous clumps of students milling around the foyer, and a cluster of teachers speaking with a woman whom I recognised from photos in the Office’s Annual Reports as being one of the Office staff (from the Information Unit). She was the person to whom I’d been instructed to identify myself prior to the programme starting. She welcomed me, and directed me to the particular theatre where the day’s events would take place. Outside the theatre was a table with various papers stacked upon it, and at this table I met one of the fourteen censors who work at the Office. We discussed the day, and my studies, and as we were talking, Mr Hastings, the Chief Censor, emerged from the theatre to see how far away things were from starting. I was

surprised to see him there, but was excited by the potential to introduce myself to him at some point during the day.

Once everyone was seated in the cinema, Mr Hastings welcomed us all. A charismatic speaker, he outlined what was planned for the day. He would outline the laws pertaining to censorship, and explain what the classifications were, and then a film which had not yet been released would be screened. There would be a ten minute break following the film for food and drink and upon their return to the theatre, the students would be required to discuss the film, and fill in an abbreviated version of the forms used by censors to decide what rating or classification to give a film. Finally, there would be another form to fill out regarding how the students believe films and other media affect them. Mr Hastings emphasised that all the information recovered on the day would be very useful to the Office, and would potentially influence the way films in future were classified.



On over-head transparency was put up on the cinema screen, detailing definitions included in the Films, Videos and Publications Classification Act 1993<sup>10</sup>. Regarding the definition of ‘publication’, Mr Hastings emphasised the broad nature of the definition, in that it could apply to almost anything (which prompted a barrage of questions from the audience regarding classification of buildings, t-shirts and tattoos), though primarily the Office deals with moving images. When someone raised the issue of music classification, Mr Hastings explained that film was the only type of publication that *must* be rated or classified (prior to release) – other publications are classified retrospectively upon request, for example, as the result of a complaint from a parent whose child is listening to a CD they (the parent) regard to be offensive. Mr Hastings cited the example of the music by rap artist Eminem, saying that it was only because parents heard their children playing it and complained to the censor’s office that it ended up being classified. He suggested that if the students wanted to be able to

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<sup>10</sup> The photographs used in the Appendix were taken by the Office of Film and Literature Classification Staff and were sent to me via email upon request.

listen to that sort of music, they play it at a low volume, so that their parents will not hear, and thus it will avoid going to the Office for classification.

Throughout this introductory speech, Mr Hastings made jokes and shared anecdotes. Many students in the audience were shocked by some of his revelations, mostly regarding the ability of the Office to censor private mail, and text messages. As debates over privacy and a sense of indignation started developing within the theatre, Mr Hastings clarified that such censorship only occurs in response to complaints from parties involved, again highlighting film as being the exception as the only type of publication that must be classified prior to release in New Zealand.

The subject of Internet censorship was raised, and Mr Hastings informed the students that the Department of Internal Affairs employs seven people to “watch computer screens”. He said that the Internet is “highly censored”, and explained that Department of Internal Affairs Inspectors will go “undercover” into chat rooms. Upon identifying a potential trader in objectionable material (namely, child abuse images), the Inspector will arrange a ‘real life’ meeting with the person, often at a park which happens to be directly across the road from the DIA building (presumably increasing their ease to make an arrest if the trader shows up). Alternatively, the DIA may request the user’s postal address from the Internet Service Provider (ISP). In response to a student’s question as to whether this ‘undercover’ approach would equate to entrapment, Mr Hastings said it would not. The trader is not induced to do something that ‘he’ was not already doing, as that is the primary purpose of the particular chat room – why else would ‘he’ be in there?

Other questions were asked about censorship of publications, such as why documentaries are not censored. Mr Hastings explained that documentaries are one of the publications given an exemption in the legislation. In these cases, submission to the Office is voluntary for the distributors.

Moving on, Mr Hastings put up another over-head transparency, detailing the definition of ‘objectionable’ under the Film, Video, and Publications Classification

Act 1993, and the Office's criteria used for classifying a publication. He said that this was what censor's have to apply "in as objective a manner as possible", the "five big ones" (criteria) being sex, horror, crime, cruelty, and violence. Offensive language, though not considered a top priority, is also considered. Censor's are required to consider not just the depiction of these things in the publication, but also the availability of the publication – who the likely audience will be. Mr Hastings explained that this is because the primary objective of the Office and the censorship legislation is to regulate things which may be 'injurious to the public good' – that is, those publications that may 'injure society' if people, or certain groups of people, were allowed access to them. Mr Hastings reminded the students that this would pertain to the second form they would be filling out later in the day regarding how publications influence the way people think, and whether the students felt that films influenced them personally to do things. Other elements to be considered by the censors include the extent of the depiction of the questionable content (length, intensity) and the manner of the depiction (humorous, educational, and so on).

These were things which, Mr Hastings emphasised, should be kept in mind as the students watched the film. In addition, he listed other criteria which would be taken into consideration in the process of classifying the film. These were as follows:

Dominant effect of the whole film

- on self
- on others (young, elderly)

Impact of the medium

- cinema as opposed to home screening with DVD and television
- location's potential ability to inhibit thoughts of acting out the film

Artistic merit

- absence of this does not equate to a ban, but presence of it might 'save' a publication, or pull the rating back (for example from an R18 to a R16).

Likely audience

- who is it aimed at?

Purpose of the publication

- use

Mr Hastings put up another over-head, this time section 14 of the New Zealand Bill of Rights Act, which deals with freedom of expression. He outlined the potential conflict between this legislation and that which governs censorship. However, he pointed out that sections 5 and 6 of the Films, Videos and Publications Classification Act 1993 annul this conflict, with the consequence that if there was a discrepancy over a particular publication, both sets of legislation would ensure that the classification sided with the freedom of expression outlined in the Bill of Rights Act. For example, if a debate occurred within the Office over a film being classified R16 or R15, and the debate could not be resolved, the film would be classified as R15. Mr Hastings also explained the role of the Appeal Board in censorship proceedings.

The next overhead displayed and defined the labels for each of the classifications. The classification 'objectionable' has no label, as arguably there would be nothing for it to be put on, as the publication would not be available. According to Mr Hastings, last year 14% of publications were made objectionable, mostly things from the Internet. He pointed out that Hollywood films are hardly ever banned in New Zealand, though did not offer specific explanations for this. Throughout this discussion, students asked questions about the classification of particular films, including *The Passion of the Christ*, *8 Mile*, and *Titanic*. When the subject of television was raised, Mr Hastings explained that the Office has no jurisdiction over television programming, and that this is governed by the Broadcasting Act 1989. In response to a query about DVD's, and the point that DVD versions of films sometimes have different classifications from their cinematic versions, Mr Hastings informed the students that this was most often due to the presence of extra material on the DVD, such as deleted scenes. These may have been removed to get the film a lower classification in cinemas, therefore once those scenes were made available, the publication as a whole would need to be re-examined and possibly reclassified.



Upon the conclusion of this section of the programme, the film which the students were going to consider was screened. Mr Hastings said he would tell them what classification the Office had given the film at the end of the day, in order that the students might draw their own conclusions first. The film screened was *Final Destination 3*, the third in a series of horror films in which a group of teenagers avoid a fatal accident, only to then be hunted down by 'death' one by one, each dying in freak (and gruesome) ways. From my own point of view, I considered this film to be aimed at teenagers between the ages of 15-19, and knowing that the previous films in this series had been classified as R16, I suspected this film would be the same. This suspicion was further confirmed by the use of the 'F-word', along with sexual references made in the opening minutes of the film (in my experience of films, the 'S-word' may make it into an R13 film, or even an M rated film, but the 'F-word' pretty much automatically pulls it into R16 league). Throughout the film, there were gasps and cries of "gross!" at seemingly appropriate moments, along with laughter at the more humorous points.

At the conclusion of the film, there was a break during which food and drinks were provided for the students in the foyer of the cinema complex. I took this opportunity to speak further with the OFLC staff. I asked how schools which attended were selected for this day, and was told that the Office sends out a letter to all high schools, and organises the day based on their responses. This year, the team from the Office had travelled to Dunedin and were moving on to Nelson after they had finished in Christchurch. In each of the other two locations, they were running two days, but due to a low response from Christchurch schools, there was only one day being run in this city. The schools attending the Christchurch day this year were Hagley Community College, Cashmere High School, Linwood High School, Villa Maria College, and Kaiapoi High School. According to the OFLC staff, the selection of the film to be shown to students depends primarily on what is available, as the Office aims to have a film that has not been released in order that students will not be aware of the classification given to the film. While the week before the Office had screened 'V for Vendetta' to students, they were unable to do so in Christchurch as the distributor had

wanted to release the film. The Office requires permission slips from all participants, stating that they have had their sixteenth birthday, in order that no one underage might see an R16 film – according to the OFLC staff, that had been a source of trouble in previous years. Film selection also depends on technology available. Other titles which had been considered, such as the South African film ‘Tsotsi’, were either not available, or only available on DVD format, which was not compatible with technology at some of the cinema complexes hosting the Censor for a Day programme.

During the break, I took the opportunity to introduce myself to Mr Hastings. He was sitting at the front of the theatre, and I went up to him, told him my name and explained my reasons for attending the Censor for a Day programme. I briefly explained my thesis and research interests, and chatted with him for a few minutes. I did not really have any specific questions to ask him (I had not known he was going to be there that day), but was glad I had introduced myself.

After a ten minute break, the students were herded back into the theatre, picking up a pen with the Office’s website on it and a form to fill out as they filed past the table set up outside the theatre entrance. At this point, the censor took over the proceedings. She informed the students that the double-sided single sheet form they were going to fill out was an abbreviated version of the forms used by the censors to classify a film. She pointed out that the purpose of this exercise was to get the individual student’s view, not that of their neighbour’s or anyone else – but at the same time, the students were to aim to disregard their personal taste, and try to apply the criteria for classification as objectively as possible. The things to think about were what they heard and what they saw. From the list of criteria (sex, horror, crime, cruelty, and violence), if those things were present in the film the students were to tick the box. This prompted queries from the students as to what warranted giving a tick, to which she responded that if it was in the film at all, they were to give it a tick. Once everyone had completed that section of the form, she directed them to the next part – for each of the criteria they had indicated as being present in the film, they were to write a description of how it was presented in the film. Acknowledging that the

categories were quite broad, she took the students through each one, while the students wrote their descriptions.

In relation to sex, the students were to consider the nature of its depiction, explicit or implied, in addition to sexual references and whether these were presented as 'humorous' or perhaps 'threatening'. Nudity was also to be considered in terms of the degree to which it was gratuitous, sexualised, or incidental. The censor encouraged the students to objectively think about their own responses to the film, giving the example that as a woman, she might have been offended by the nudity. She asked the students to consider if they were offended by it, and if so why.

Horror was a prominent element of the particular film screened, and students were asked to consider what about it made it scary, considering elements such as the soundtrack of the film, or the atmosphere it created. She asked that they think about the supernatural themes in the film and whether these depicted as 'nasty', or 'friendly'. In addition, she asked them to consider how much these things dominated the film.

There were depictions of crime in the film, and so in relation to this criteria the students were asked to write down what sort of crime was present in the film, such as shoplifting, drug use, or terrorist attacks, and how it was presented, and whether it was glamorised. The students were asked to consider the presence of cruelty in the film, and if this was presented as physical torture or abuse, or psychological interrogation. Additionally, violence was to be examined as being choreographed, intense, gruesome or salacious. Though not one of the main five, the censor also asked the students to consider the presence of offensive language in the film. She asked them to think about the language used, whether it offended them, whether it was the sort of language they used, whether it might offend others, and how it was used.

The second part of the form involved the students thinking about the nature of the film, not a description but rather their emotive responses to it, both from their own point of view, and how they imagined it might affect other people. As part of this, the

students were asked to identify any merit in the film, in terms of social merits, offering different perspectives or insights, educational merits, raising awareness, or none of these. Next, she directed the students to write down who they thought the intended audience of this film was – who did the makers have in mind, and who would enjoy it? Following this, the students were asked to write down whether they felt the medium (the cinema) had any impact on the way they viewed the film. Once the students had completed this, she again put on the overhead a list of the various classifications used by the Office. She went through each of these as Mr Hastings had done, and asked the students to write down on their forms the classification they would give it, along with any specific reasons for awarding the film their chosen classification. They were also asked to write down the descriptive notes they would attach to the classification of this film, descriptive notes being designed to warn viewers of the reasons for the classification. She explained to the students that generally, the lower the classification the more descriptive the note is. For example, an M rating will have quite a few notes with it as it can carry a degree of ambiguity as a wide range of material may warrant this rating, while an R18 is not as likely to have as many notes as persons attending this film may be more likely to know what to expect if they are aware of the implications of this classification.



Once the filling in of forms was completed, these were collected, and Mr Hastings took the floor again. He asked for a show of hands as to the classifications the students had awarded the film. None had deemed it objectionable, approximately six had given it an R18 classification, the majority put it at R16, two at R15, one each for R13 and M, and none for PG or G. Mr Hastings then opened up the discussion by asking students in the audience why they had selected their classification of choice for this film. In response, a student who had rated the film R18 suggested that youth were impressionable and that the film would make them anxious about everyday life. This sparked debate over equations between age and maturity, and people's ability to negotiate what they are seeing. Arguments were put forth about desensitisation towards violence caused by films such as this, and unrealistic violence as caused by an unseen force in contrast to other cases of

violence perpetrated by identifiable individuals. In relation to this, the students discussed the positioning of the viewer by the camera throughout the film, and how this might be viewed by different audiences. Much of the discussion continually returned to the issue of genre, in terms of a target audience, and the ability of viewers to decode the images in the film by being familiar with the tropes of the horror genre. Throughout the discussion, Mr Hastings made speculations which prompted discussion, and posed to the students the question of why audiences seem to like being entertained by violence? This invoked discussions of the relationship between entertainment and 'real life', the ability to leave things behind in the cinema and to not let those emotions and behaviours felt and viewed when watching the film impinge upon life beyond the film. In response to whether they thought the film would encourage people to replicate the acts seen in it, the students had mixed responses. Most felt that it would not, as the majority of the violence in the film was unrealistic and also not carried out by a person. However, some felt that certain acts, particularly the shooting of pigeons with a nail gun in one scene, which was done by a person in the film, might encourage some people to copy the film. Overall, the discussion showed that many of the students felt that an audience is not passive when engaging with a film, and is sophisticated enough to decode and negotiate the content of film, though arguably only after having reached a certain age. At the conclusion of the discussion, the students were asked to fill in another form, which included questions such as the last film they had seen, and the last video game they had played.

The day ended with a thank you from the Office staff to the students for attending and giving their feedback. Mr Hastings informed the audience that in classifying the film, the Office had reached the same conclusion as the majority of the students, and had given the film an R16 classification. Having already spoken to Mr Hastings, who was now swamped with students, I thanked Office staff again for allowing me to attend, and they said they would look forward to seeing my completed thesis, suggesting that it could possibly go in their library at the Office of Film and Literature Classification.

## **Appendix 2: Images used from Other Sources**

Note: These sources are listed in the order in which the images appear in the thesis.

### **Chapter 5: Policing and Regulating of Mobile Objects: Books, Videos and Video Games**

American Psycho Book Cover - [http://en.wikipedia.org/wiki/American\\_Psycho](http://en.wikipedia.org/wiki/American_Psycho), accessed 22/03/06

Apple Ipod Image - <http://www.apple.com/ipodnano/>, accessed 22/03/06

### **Chapter 6: Beyond Censorship – Policing the Internet, Tracking and Tracing**

“You must be 18 or Older to Enter This Website” - <http://slavercise.com/>, accessed 6/5/06

“Censored” - <http://www.lionstale.org/mar01/>, accessed 6/5/06

“Net Nanny” - <http://www.netnanny.com/>, accessed 6/5/06

“Computers in School” - [www.k12computers.com/](http://www.k12computers.com/), accessed 6/5/06

“Internet Public Access Point” - <http://en.wikipedia.org/wiki/Internet>, accessed 6/5/06

“Lan” <http://www.ypgd.org/imgs/lan%20party.jpg>, accessed 6/5/06

“Kazaa” - <http://www.kazaa.com/us/index.htm>, accessed 6/5/06

“Manhunt” - <http://images.google.co.nz/images?svnum=10&hl=en&lr=&q=manhunt&btnG=Search>, accessed 6/5/06

“Warning” - <http://glamoursoft.com/warning.html>, accessed 6/5/06

Thugs and Jugs - <http://www.thugsandjuggs.com/>, accessed 6/5/06

# Appendix 3: Full definition of

## ‘objectionable’ under the Films,

## Videos and Publications Classification

## Act 1993

### **3 Meaning of objectionable**

- (1) For the purposes of this Act, a publication is **objectionable** if it describes,
- depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good.
- (1A) Without limiting subsection (1), a publication deals with a matter such as sex
- for the purposes of that subsection if –
- (a) the publication is or contains 1 or more visual images of 1 or more children or young persons who are nude or partially nude; and
  - (b) those 1 or more visual images are, alone, or together with any other content of the publication, reasonably capable of being regarded as sexual in nature.
- (1B) Subsection (1A) is for the avoidance of doubt.
- (2) A publication shall be deemed to be objectionable for the purposes of this Act if the publication promotes or supports , or tends to promote or support, -
- (a) the exploitation of children, or young persons, or both, for sexual purposes; or
  - (b) the use of violence or coercion to compel any person to participate in, or submit to, sexual conduct; or
  - (c) sexual conduct with or upon the body of a dead person; or
  - (d) the use of urine or excrement in association with degrading or dehumanising conduct or sexual conduct; or
  - (e) bestiality; or
  - (f) acts of torture or the infliction of extreme violence or extreme cruelty.
- (3) In determining, for the purposes of this Act, whether or not any publication (other than a publication to which sub-section (2) applies) is objectionable or should in accordance with section 23(2) be given a

classification other than objectionable, particular weight shall be given to the extent and degree to which, and the manner in which, the publication -

- (a) describes, depicts, or otherwise deals with –
  - (i) acts of torture, the infliction of serious physical harm, or acts of significant cruelty:
  - (ii) sexual violence or sexual coercion, or violence or coercion in association with sexual conduct:
  - (iii) other sexual or physical conduct of a degrading or dehumanising or demeaning nature:
  - (iv) sexual conduct with or by children, or young persons, or both:
  - (v) physical conduct in which sexual satisfaction is derived from inflicting or suffering cruelty or pain:
- (b) exploits the nudity of children, or young persons, or both:
- (c) degrades or dehumanises or demeans any person:
- (d) promotes or encourages criminal acts or acts of terrorism:
- (e) represents (whether directly or by implication) that members of any particular class of the public are inherently inferior to other members of the public by reason of any characteristic of members of that class, being a characteristic that is a prohibited ground of discrimination specified in section 21(1) of the Human Rights Act 1993.

- (4) In determining, for the purposes of this Act, whether or not any publication (other than a publication to which sub-section (2) applies) is objectionable, the following matters shall also be considered:
  - (a) the dominant effect of the publication as a whole:
  - (b) the impact of the medium in which the publication is presented:
  - (c) the character of the publication, including any merit, value, or importance that the publication has in relation to literary, artistic, social, cultural, educational, scientific, or other matters:
  - (d) the persons, classes of persons, or age groups of the persons to whom the publication is intended or is likely to be made available:
  - (e) the purpose for which the publication is intended to be used:
  - (f) any other relevant circumstances relating to the intended or likely use of the publication.